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Louisiana. Laws, statutes, etc. Revised Statutes

# CONSTITUTION AND STATUTES OF LOUISIANA

The Constitution with all amendments to January 1920.  
The Revised Statutes (Official Edition 1870)  
as amended by legislation to January 1920.

All acts of the General Assembly of a general nature,  
omitting only acts which in terms amend articles of the  
Revised Civil Code and Code of Practice.

COMPILED AND ANNOTATED  
BY  
**SOLOMON WOLFF**  
OF THE NEW ORLEANS BAR

IN THREE VOLUMES

VOLUME II

INDIANAPOLIS  
THE BOBBS-MERRILL COMPANY

1920

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1920

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The great number of Acts adopted since 1870 when the official edition of the Revised Statutes was published, and the variety of this legislation, has made it desirable to establish titles other than those of the Official Edition. These new titles are printed in heavier type than those of the official Edition.

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# HIGHWAY DEPARTMENT.

## STATE HIGHWAY ENGINEER.

Act 49 of 1910, p. 74.

### TITLE.

AN ACT to require the State Board of Engineers to assume control of State Highways under certain conditions; to elect a State Highway Engineer; to define his powers and duties, and fix his compensation; to authorize the construction and maintenance of highways by contract or by the Highway Engineer; to provide for the working of convicts on highways under certain regulations; to authorize the acquisition by expropriation or otherwise of rights of way for highways, drainage canals, or ditches; to provide a revenue for carrying out the objects and purposes of this act, and to provide for the disbursement thereof; and to require the parishes, cities, towns and villages to contribute a certain proportion of the costs of constructing and maintenance of highways, defining a State highway, and repealing all laws or parts of laws in conflict with this act.

### SELECTION OF STATE HIGHWAY ENGINEER.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the State Board of Engineers, whenever called on so to do by the police juries of the parishes or the municipal authorities of cities, towns and villages, shall furnish the different road districts, parishes, cities, towns and villages with plans and specifications for public roads, and such assistance and advice as will tend to create a uniform system of public roads throughout the State. In order to more fully accomplish this end, the State Board of Engineers are hereby authorized and required to select or appoint a competent engineer and fix his compensation, which shall not exceed the sum of \$5,000.00 per annum, who is schooled in highway construction or engineering, to take charge of and construct public roads when authorized to do so by the State Board of Engineers, or upon the request of any of the parochial or municipal authorities, as will hereinafter be provided.

### SAME—DUTIES, BOND, TERM OF OFFICE, ETC.

Sec. 2. Be it further enacted, etc., That such person thus selected as provided in Section 1 of this Act shall be known as the State Highway Engineer, and he shall before entering upon the duties required of him by this Act and assigned him by the State Board of Engineers, take an oath to faithfully discharge the duties imposed upon him and execute a bond with solvent surety in favor of the Governor of the State of Louisiana, in a sum not less than ten thousand dollars (\$10,000.00), which bond shall be approved by the State Board of Engineers. He shall hold his office during the pleasure of the State Board of Engineers. The State Board of Engineers shall appoint, in its discretion, such assistant engineers and such other help as may be necessary to the proper conduct of the work of establishing, constructing, maintaining and repairing public highways with the bridges, culverts, drains and other appurtenances and accessories incident thereto. The office of the State Highway Engineer shall be with the State Board of Engineers, and shall at all times be under its supervision, and the said State Board of Engineers shall provide such officer with suitable office rooms and with such clerical help as may be necessary to discharge the duties of his office.

### DUTIES OF STATE BOARD OF ENGINEERS.

Sec. 3. Be it further enacted, etc., That it shall be the duty of the said Board of State Engineers to hold meetings at such times and for such periods as it may deem essential for the proper carrying out of the provisions of this Act.

It shall be the duty of the said Board to consider at its meetings all questions relating to the general policy of the State highway system, and for the conduct of the work in general; to receive and consider, at such times as it may select, the reports of the State Highway Engineer and to act in all matters relating to recommendations, estimates and appropriations which it may be found advisable to submit to the Governor.

**DUTIES OF STATE HIGHWAY ENGINEER.**

Sec. 4. Be it further enacted, etc., That the State Highway Engineer shall have charge of all records pertaining to the State highway system, same to be filed and retained in the office of the State Board of Engineers; shall keep a record of all purchases and orders relating to the business of his office; shall keep on file copies of plans and specifications and estimates prepared by his office. He shall cause to be made and kept a general highway plan of the State, and shall collect information and compile statistics relative to the mileage, character and condition of the State highways and bridges in the different parishes, cities, towns and villages of the State. He shall investigate and determine the methods of road construction best adapted to various sections of the State, and shall establish standards for the construction and maintenance of State highways in the various parishes, giving due regard to the topography, natural conditions, character and availability of road-building materials, and the ability of parishes, cities, towns and villages to meet their portion of the cost of building and maintaining State highways under the provisions of this Act. It shall be his duty in improving the highways of the State to pay special attention to the most important of trunk roads, and where practicable to construct and maintain continuous lines of road for intra and interstate traffic. He may at all times be consulted by parish, city, town and village officials, having authority over highways and bridges, relative to any questions relating to such highways and bridges. He shall determine the character and have the general supervision of the construction and repair of all highways improved under the provisions of this Act, subject to the approval of said Board of Engineers. He shall report all the proceedings of his office to the Board of State Engineers at such periods as they may designate.

**CONSTRUCTION AND REPAIR OF ROADS.**

Sec. 5. Be it further enacted, etc., That whenever the police jury of any parish, the mayor or governing authority of cities, towns or villages of the State shall decide that any main traveled road or roads in such parish, city, town or village should be improved or constructed under the provisions of this Act, they shall make written application to the State Highway Engineer for State aid in making the proposed road. Upon receipt of such application the State Highway Engineer shall send to the president of such police jury, the mayor or other governing authority of cities, towns or villages a blank form for the purpose of eliciting such information as may be desired concerning the proposed road improvement, which blank form said president of said police jury, mayor or other governing authority shall fill out to the best of his ability and return to the said State Highway Engineer. If the said State Highway Engineer shall be satisfied that the proposed improvement will be upon a main traveled road or of public utility and convenience, and that the parish, city, town or village shall be able to meet its portion of the cost of such improvement, the State Highway Engineer may approve the same and undertake said work of improvement with the approval of the said Board of State Engineers, in accordance with the provisions of this Act, and said State Highway Engineer or one of his assistants shall proceed to view said road or part thereof proposed to be improved, and shall make all necessary surveys, plans, specifications and estimates of cost of its construction, out of such materials as may be determined by said State Highway Engineer. For improvements to cost \$2,000 or less, it shall be discretionary with the State Highway Engineer, with the approval of the Board of State Engineers, to execute such work of improvement himself, or to allow the parish, city, town or village to do the work, or to let the

same by contract. Where the cost of the proposed improvement is to exceed \$2,000, it shall be the duty of the State Highway Engineer to advertise for bids to do the work, according to the plans and specifications prepared therefor, in one or more newspapers having a circulation in each parish, city, town or village, in which such proposed highway lies, for a period of three weeks, when such advertisement is in a weekly paper, and for fifteen days when in a daily paper; and such advertisement shall also be published in one or more daily papers of a general circulation throughout the State for a period of fifteen days. Such advertisement shall state the place where the bidder may inspect the plans and specifications, the place where the bids will be received, and the time and place for opening the same. Every such bid shall be accompanied by a certified check of the bidder in an amount equal to five per centum of the amount of his bid, which check shall be forfeited to the State Highway Fund, hereinafter provided for, should the bidder to whom such contract is awarded fail to enter into a contract, as required, within ten days after notice to do so from said State Highway Engineer. The checks of all unsuccessful bidders shall be returned after the contract is awarded and bond given. All bids so submitted shall be received at the office of the said State Highway Engineer, and shall be publicly opened and read, at the time stated in said advertisement, by him or in his presence. The president of the police jury of such parish, the mayor or other governing authority of the city, town or village in which said improvement is to be made, and for which bids are submitted, shall be notified by the State Highway Engineer of the time fixed for opening said bids, and he or some other member of the said police jury, the mayor or a member of the municipal board may be present at said opening of bids. The said State Highway Engineer shall have the right to reject any and all bids if in his opinion a good cause exists therefor, and may proceed to execute the work with his own force, employing such other means or agencies as are hereinafter provided; but otherwise he shall award the contract to the lowest responsible bidder, such award to be subject to the concurrence of the said police jury, or of the mayor and council, or other governing authority. The successful bidder shall be required to furnish bond of a surety company authorized to do business in Louisiana, in a sum equal to one-half the amount of the contract awarded, conditioned that such work shall be performed in accordance with the plans, specifications and the terms of the contract, and no party bidding for the work shall be accepted as surety on the required bond. When the contract is signed by the State Highway Engineer and the successful bidder, with the written concurrence of the police jury, the mayor and council, or other governing authority, a copy of same, including the plans, specifications and estimates of cost, shall be forthwith filed in the office of the State Highway Engineer, with a like copy furnished to the said police jury, the mayor or other governing authority, for filing in the office of such parochial or municipal board, and a copy to the successful bidder.

**CONSTRUCTION, ETC., UNDER SUPERVISION OF ENGINEERS.**

Sec. 6. Be it further enacted, etc., That all work of construction, improvement and maintenance of highways, under the provisions of this Act, shall be under the supervision and direction of the State Board of Engineers, and shall be performed by the State Highway Engineer in accordance with the plans, specifications and contract prepared and executed therefor.

**COST OF ALL WORK—HOW PAID.**

Sec. 7. Be it further enacted, etc., That the total cost of all work of highway construction, improvement and maintenance under the provisions of this Act shall be paid by the State Treasurer upon the warrant of the State Highway Engineer, approved by the president of the Board of State Engineers, out of the fund hereafter created for the purposes of this Act. The parish, city, town or village wherein such work of improvement has been or is being performed shall refund to the State one-half of such total cost thereof. The portion of said cost to be borne by the parish, city, town

or village in which said highway improvement has been made shall be paid to the State Treasurer by the treasurer of said parish upon the order of said police jury, or by the treasurer of said city, town or village upon the order of the mayor and council or other governing body. Upon the completion of any such contract for highway improvement, the State Highway Engineer shall certify to the State Treasurer and to the president of the police jury of the parish, or the mayor or other governing authority of the city, town or village, wherein such work of improvement has been performed, the portion of the cost thereof to be borne by said parish or parishes, cities, towns or villages, and if the portion of said parish or parishes, cities, towns or villages, or either or any of them, shall not be paid to the State Treasurer within thirty days after being so certified by the State Highway Engineer, then the portion of such parish, city, town or village remaining unpaid shall be charged against said parish, city, town or village, and no further State Highway Fund hereinafter created.

Provided, that not more than fifty thousand dollars (\$50,000.00) shall be used or apportioned by the State Board of Engineers to the building of such highways in any one parish during any one calendar year, if other parishes have pending applications for State aid in highway construction under the terms of this Act; and provided further, that no parish shall receive an apportionment or expenditure of said funds for more than one year, when other parishes are applying for said funds.

**PARTIAL PAYMENTS TO CONTRACTOR.**

Sec. 8. Be it further enacted, etc., That the State Highway Engineer may authorize partial payments to any contractor performing any highway improvement under the provisions of this Act, as the same progresses; but not more than eighty per cent of the contract price of the work as it is completed shall be paid in advance of the full completion and acceptance of such paid improvement; at least twenty per centum of the full contract of any such work or improvement shall be withheld until the work is satisfactorily completed, inspected and accepted by the State Highway Engineer.

**ORDER IN WHICH WORK SHALL BE DONE.**

Sec. 9. Be it further enacted, etc., That the improvement of roads under the provision of this Act shall be taken up and carried forward in the respective parishes of the State, as far as practicable, in the order of the date of receipt of the applications therefor from the presidents of the police juries of the respective parishes, mayors or other governing authorities of cities, towns and villages, or as the State Highway Engineer may determine; but no parish, city, town or village shall be entitled to receive State aid as provided in this Act unless and until it shall be first made to appear to the State Highway Engineer that the money with which to meet the proportion of said expense to be borne by the parish, city, town or village is either already in the hands of the parish, city, town or village treasurer, or will be so in hand and immediately available upon the completion and acceptance of said work of improvement.

**ALL CONTRACTS TO BE MADE IN NAME OF STATE.**

Sec. 10. Be it further enacted, etc., That every contract for highway improvement to be made under the provisions of this Act shall be made in the name of the State of Louisiana, signed by the State Highway Engineer and the contracting parties, with the written approval of the president of the police jury of the parish, or of the mayor or other governing authority of the city, town or village wherein the work is to be done. No such contract for highway improvement shall be entered into by the State Highway Engineer, nor shall any such work be authorized under the provisions of this Act until the written concurrence therein of the police jury of the parish or parishes, or of the mayors or other governing authorities of the cities, towns and villages, respectively, in which said proposed improvement is to be made, agreeing that such parish or parishes, cities, towns or villages, respectively, will assume their proportion of the cost thereof, as hereinbefore provided, shall have been obtained and placed on file in the office of the Board of State Engineers.

**CONTRIBUTIONS BY PARISHES, ETC., TO MAINTENANCE OF ROAD.**

Sec. 11. Be it further enacted, etc., That whenever any road shall be constructed or improved in any parish, city, town or village, under the provisions of this Act, or has heretofore been so constructed or improved under previous statutes relating to road improvement, under which State aid has been granted, the State Highway Engineer shall thereafter keep all such roads in proper condition and repair, and the total cost of such maintenance shall be paid by the State Treasurer, the said parish, city, town or village to reimburse the State its proportional share of such total cost—one-half thereof, such payment and reimbursement to be made in like manner and as provided in Section 7 hereof for the original cost of such highways.

The State Treasurer is hereby authorized to pay, upon the warrant of said State Highway Engineer, approved by the President of the State Board of Engineers, such sums as may be required for the repair of such roads. It shall be the duty of the said State Highway Engineer to organize a system of continuous repair and inspection of State highways so that the same will be in good condition at all times.

**LAYING PIPE, ETC., ON ROADS—PERMISSION REQUIRED.**

Sec. 12. Be it further enacted, etc., That no State highway shall be dug up or otherwise used for laying pipe lines, sewers, poles, wires or railways, or for other purposes, without the written permit of the State Highway Engineer, and then only in accordance with the regulations prescribed by said engineer; and all such work shall be done under the supervision and to the satisfaction of said engineer, and all the cost of replacing the highway in as good condition as previous to its being disturbed shall be paid by the person to whom or in whose behalf such permit was given, or by the persons by whom the work was done. In case of immediate necessity therefor, a city, town or village may dig up said State highway without such permit from said State Highway Engineer; provided, that in such cases such highway shall be forthwith replaced in as good condition as before at the expense of such city, town or village. No railway or trolley line shall be permitted within the right of way of any State highway, except at crossings, and no trees on any State highway shall be used or be disturbed for the erection of electric lights, telephone or telegraph lines. It shall be the duty of the State Highway Engineer, as far as practicable, to have State highways bordered by trees.

**PURCHASE OF ROAD BUILDING APPARATUS.**

Sec. 13. Be it further enacted, etc., That the State Highway Engineer, with the approval of the State Board of Engineers, may purchase for the State all rock crushers, steam rollers and other road machinery, tools and implements, and draft animals that may be needed for the purposes of this Act, and such machinery shall be managed and used under the direction of said engineer, who shall employ competent men to operate and keep them in repair.

Said State Highway Engineer may purchase all necessary materials and supplies and incur such other expenses as may be necessary in the operation, maintenance and transportation of all such road machinery, tools and implements. Upon the application of the police jury of any parish, or of the mayor or other governing authority of any city, town or village, said State Highway Engineer may furnish for use such road machinery when convenient and practicable for use in building or repairing any road or roads in such parish, city, town or village, all expenses incurred thereby to be borne by said parish, city, town or village.

**ACQUISITION OF RIGHT OF WAY FOR ROAD.**

Sec. 14. Be it further enacted, etc., That in all cases where it is necessary to acquire a right of way in constructing a new highway or changing the location of an old, the right of way thereof shall be acquired by the parish, city, town or village, either by purchase, donation or by expropriation under the general laws of the State relative to expropriation of private property for public purposes, in the event the owner of said property and

the governing authorities of such cities, towns or villages, or the State Highway Engineer should not agree upon the price thereof. In expropriating lands for the right of way, the measure of damages to such land owner shall be double the assessed value of the property per acre, appearing on the last assessment rolls. This measure of damages shall include the price of the land and all damages that may result to the owner; provided, however, that if any improvements of the land owner, or any crops upon the land are damaged or destroyed by the location of such highway, then he may recover additional compensation for the actual injury or destruction of such improvements or crops. After the State Highway Engineer has laid out a road over a certain tract of land, and actually commenced the construction of said highway thereon, the land owner shall not be entitled to prevent or retard the construction of the road by any legal process, but shall be remitted to an action for damages, and recover such damages as is authorized under this Act. All State highways shall be of such width as shall be fixed by the State Highway Engineer, and the rights of way authorized to be acquired under this Act shall be of such width as may be designated by the State Highway Engineer, as in his judgment is best suited to that particular locality. The State Highway Engineer shall also have the right and authority to have dug canals and ditches or drains sufficient in his judgment to properly drain the road being constructed through any lands of private individuals or corporations to drain the public roads. The right of way for such canals and ditches may be acquired in the same manner and for the same compensation as is herein provided for acquiring rights of way for highways. In the event the land owner should donate the right of way for the ditch or canal through his property, then under such terms, restrictions and regulations as may be imposed by the State Highway Engineer he shall be permitted to drain into said ditch or canal. If, however, such private owner will not donate this right, it shall be left to the discretion of the State Highway Engineer whether he be permitted to drain into such ditch or canal under any conditions.

Note. This section violates Const. Art. 107, but its unconstitutionality does not invalidate the entire statute. Police jury vs. Martin, 140 L. 848.

#### **SALE OF LAND ON WHICH OLD ROADS ARE LOCATED.**

Sec. 15. Be it further enacted, etc., That the said State Highway Engineer, with the approval of the State Board of Engineers and the president of the police jury, or the mayor or governing authority of any city, town or village, may exchange such land or part thereof upon which any highway is now located for another location for such highway, or he may sell such lands when the highway has been abandoned, or may vacate any lands or part thereof, or rights in lands which have been taken or acquired for road purposes, under this Act, by executing and recording a deed therefor, and said vacation shall vest the title to the lands or rights so vacated in the persons their heirs and assigns who are named in said Act.

#### **EMPLOYMENT OF LABOR OF CONVICTS.**

Sec. 16. Be it further enacted, etc., That the said State Highway Engineer shall have the authority to employ any and all labor necessary when performing a contract for the construction or repair of public roads, or performing the preliminary work of surveying or performing any other work necessary in connection therewith, and when such labor is employed by the day he shall only pay the reasonable and customary price.

That in order to further carry out the provisions of this Act and provide labor sufficient to construct and maintain the public roads as herein provided, the convicts of the State of Louisiana may be worked upon the said public roads as authorized by the Constitution of the State. Whenever in the opinion of the State Highway Engineer convicts can be profitably worked upon the public roads, he shall apply to the Board of Control of the State Penitentiary, who shall furnish such convicts in case they are available. The labor performed by the convicts shall be furnished free of charge, provided, however, that the cost of maintenance and operation shall be

borne by the parish, municipality or road district having the work performed, and paid out of the fund available for said work. The Board of Control of the State Penitentiary shall at all times retain control and supervision over said convicts in the same manner and to the same extent as if they were upon the State farms or in the penitentiary walls.

**STATE HIGHWAY FUND.**

**Sec. 17.** (As amended by Act 237, 1918.) Be it further enacted, etc., That the Road Fund provided for and created by Act No. 14 of 1910, adopted as an amendment to the Constitution at the Congressional Election of 1910, and embodied as Article 291 of the Constitution of 1913, created to construct and keep in repair the State highways or public roads throughout the State, with the necessary culverts, bridges and drains, and all other appurtenances incident and accessory thereto, shall be set apart and dedicated to the carrying out of the provisions of this Act. Said fund shall be paid into the State Treasury, and shall be known and designated as the "State Highway Fund," and applied for the exclusive uses and purposes of this Act; provided, however, that from and after the first day of January, 1919, there shall also be created and maintained a special fund to be known as "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," and into the last mentioned special fund shall be paid all motor vehicle licensees collected from the parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, and such portion or sufficient amount out of the special road tax collected under said Article of the Constitution from the Parish of Orleans as may be necessary to create and maintain a fund of Sixty Thousand Dollars per year, and said last mentioned special fund shall be set apart and dedicated for the purpose of paying any and all contracts heretofore made or hereafter to be made, and any and all bonds, notes or evidences of indebtedness made or issued by the State Highway Department to provide moneys for the cost of constructing the following State highways:

First. The Chef Menteur Road, commencing at People's Avenue, in the Parish of Orleans, and extending to a place in the Parish of St. Tammany, at the boundary line between the States of Louisiana and Mississippi, opposite or nearly opposite to Logtown, in the State of Mississippi; and,

Second. For the construction of a model State highway determined upon and laid out by the Highway Department, to extend approximately parallel to the Illinois Central Railroad from Hammond into New Orleans.

The State Treasurer is authorized to disburse said special funds for all expenditures authorized by this Act, upon warrant of the State Highway Engineer, approved by the President of the State Board of Engineers. When the said Chef Menteur Road and the said Hammond-New Orleans Road shall have been fully constructed and all obligations incurred for the construction of the same have been fully paid, principal and interest, the said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," shall be discontinued, and no moneys shall be set apart and dedicated thereto from the Parish of Orleans out of the special road tax collected under Article 291 of the Constitution. Any portion of the special road tax of one-quarter of a mill on the dollar collected under Article 291 of the Constitution of 1913, known herein as the "State Highway Fund," not expended at the expiration of any fiscal year shall revert to the Road Fund and be used for the purposes and in the manner set forth in Act 49 of 1910.

**WHAT TERM "HIGHWAY" INCLUDES.**

**Sec. 18.** Be it further enacted, etc., That the term "State Highway" so used in this Act shall be construed to include all highways constructed under the provisions of this Act, and all such highways heretofore constructed to which the aid of the State has been extended.

**IMPROVEMENT, ETC., OF STREETS.**

Sec. 19. Be it further enacted, etc., That nothing in this Act shall be construed as to allow the highway commission created under this Act to expend any funds of the State in the building or improvement of streets in incorporated cities or towns, except in such cases where the streets connect two public roads constructed or improved under the provisions of this Act.

**REPEALING CLAUSE.**

Sec. 20. Be it further enacted, etc., That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

**Note.** See Title "Public Works," Subtitle "Board for Engineers," for duties imposed on Board relative to Highway Department. See Title "Motor Vehicles."

**Note.** The State is not liable to laborers, materialmen and subcontractors dealing with a contractor with whom the State has a contract for the improvement of a highway under this act. Laborers have no lien upon public roads upon which they perform work. The parish in which the road is located is liable to the State for the portion of the cost and therefore could not file a concursus proceeding. *State et al. vs C S Jackson, Jr.*, 137 L. 931. (The right of all parties to a contract under the act, are carefully considered).

For expropriation of property for purpose of constructing a highway see *Police Jury, etc., vs Martin*, 140 L. 848. (See note to Sec. 14.) Limitation of right of taxation for the purpose. *Billeaud vs. Police Jury*, 141 L. 957.

**ASSENT TO ACT OF CONGRESS—AGREEMENT WITH UNITED STATES.**

**Act 214 of 1918, p. 396.**

**TITLE.**

AN ACT to require that the General Assembly of the State of Louisiana assent to the provisions of the Act of Congress, approved July eleventh, nineteen hundred and sixteen, entitled "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes."

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the State of Louisiana hereby assents to the provisions of the Act of Congress, approved July eleven, nineteen hundred and sixteen, entitled "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," found in the thirty-ninth U. S. Statutes at Large, page three hundred and fifty-five. The State Highway Department is hereby authorized to enter into all contracts and agreements with the United States Government relating to the construction and maintenance of rural post roads under the provisions of said Act of Congress; to submit such scheme or program of construction and maintenance as may be required by the Secretary of Agriculture of the United States of America, and do all other things necessary to fully carry out the co-operation contemplated and provided for by the said Act. The good faith of the State of Louisiana is hereby pledged to make available funds sufficient to equal the sums apportioned to the State by or under the United States Government during each of the five years for which Federal Funds are appropriated by the said Act, and to maintain the roads constructed under the provisions of the said Act, and to make adequate provisions for carrying out such maintenance.

Sec. 2. Be it further enacted, etc., That all laws inconsistent or in conflict herewith, are hereby repealed.

**DEPOSIT OF DONATIONS IN STATE TREASURY.**

**Act 75 of 98, p. 112.**

**TITLE**

AN ACT to authorize the Highway Department to receive and deposit in the State Treasury, to the credit of the State Highway Fund, any sum that it may receive by way of donation or otherwise toward the construction of any highway.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Highway Department of the State of Louisiana shall be authorized to receive, either before or after the construction of any high-

way, any donation towards the cost thereof, and shall deposit the same in the State Treasury, to the credit of the State Highway Fund.

Sec. 2. Be it further enacted, etc., That all laws inconsistent or in conflict herewith, are hereby repealed.

**DEPARTMENT MAY ISSUE CERTIFICATES BASED ON CERTAIN LICENSES.**

**Act 41, E. S. 1917, p. 69.**

**TITLE.**

**AN ACT** authorizing the Highway Department of the State of Louisiana to anticipate the revenues of certain specially dedicated funds arising from the collection of licenses on motor vehicles, by issuance of certificates of indebtedness secured by, and to be paid out of, the collection of said licenses so dedicated, creating between the holders of said certificates, the Highway Department and the Treasury of the State an irrevocable contract to provide for the payment of said certificates out of funds so dedicated, to provide for the sale of such certificates, and to define the duties of the Highway Engineer and of the State Treasurer, Secretary of State and Auditor in connection therewith and to provide for a fiscal agent to whom the funds shall be let for deposit.

**CONTRACTS WHICH MAY BE LET.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all collections made by the Secretary of State for motor vehicle licenses from the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany, and Orleans having been specially transferred to the Highway Department of the State of Louisiana by virtue of Act No. — of the Extra Session of the Legislature for the year 1917, and the said act having specially allotted, dedicated and set apart to a special and specific funds the proceeds of all licenses, fines and penalties collected in the aforementioned Parishes as may be necessary, first, for the completion of the Chef Menteur Road in the Parish of Orleans and St. Tammany, already begun and contracted for and for the construction of all such bridges as may be necessary for said road, with the proceeds of this license and the State Highway Department having determined on the construction and maintenance of model State highways to extend from New Orleans parallel to the Illinois Central Railroad from Hammond to New Orleans on such route as the Highway Department of the State of Louisiana may deem wise to designate, and as provided for in Act No. — of the Extra Session of the General Assembly of the State of Louisiana for the year 1917, entitled "An Act to amend the title and Section 11 of Act 260 of 1914, approved July 9th, 1914."

The Highway Engineer of the State of Louisiana is hereby specially authorized to let such contracts in accordance with the terms of Act 49 of 1910 as will complete and construct such State highways suggested in this Act; provided that before any such contract is let, same shall be approved by the State Board of Liquidation.

**ANTICIPATION OF REVENUE—ISSUE OF CERTIFICATES.**

Sec. 2. Be it further enacted, etc., That in order to provide funds for the payment of the contracts provided for in Section 1 of this Act, the State Highway Engineer shall be allowed to anticipate the revenues arising from the collection of motor vehicle licenses in the Parishes of Orleans, Jefferson, St. Charles, St. John the Baptist, Tangipahoa and St. Tammany and shall be allowed to issue, to provide for the payment under said contracts, negotiable certificates of indebtedness against the revenues of specific years, the said certificates to be made payable to bearer, to have attached semi-annual interest bearing coupons, and said certificates to be signed by the Highway Department of the State of Louisiana through the Highway Engineer and to be countersigned by the Secretary of State and the Treasurer of the State of Louisiana. The said certificates to be issued numeri-

cally and made payable serially from the first of January, 1920, and each year thereafter or until a sufficient fund is created by the sale of said certificates to provide for the payment of the work set forth in Section 1 of this Act, provided that no certificate shall be issued in excess of the prospective revenues of the year against which these certificates are drawn, and the prospective revenues of the year against which these certificates are drawn shall be fixed and determined by the extent of the aggregate of the revenues of the previous year from the same territory and the same sources, to be estimated from the year 1919 as a base and the revenues of each year will be estimated by the Secretary of State, the Treasurer and the Highway Engineer the judgment of the majority of whom shall be final.

**FORM OF CERTIFICATE.**

Sec. 3. Be it further enacted, etc., That the certificates shall be drawn on the Treasury of the State of Louisiana, shall be known as the State of Louisiana Highway certificates and be in approximately the following form:

No. \_\_\_\_\_ Series \_\_\_\_\_

The Treasurer of the State of Louisiana shall pay to bearer the sum of \_\_\_\_\_ Dollars (\$.....) for labor performed under the terms of a certain contract entered into by the Highway Department of the State of Louisiana of date \_\_\_\_\_ and in accordance with Act 49 of 1910. This certificate shall be paid only out of funds arising from the collection of licenses on motor vehicles collected in the parishes of Orleans, Jefferson, St. Charles, St. John the Baptist, Tangipahoa, and St. Tammany, as provided by Act No. — of 1917 and no other, which said funds are specially dedicated and are deposited with the State Treasurer to meet this and similar obligations of like character, and is one of a series of certificates issued under the terms of Act No. — of 1917, to meet the conditions of a contract provided for in accordance therewith. This certificate bears interest at the rate of 5% per annum, payable semi-annually, as evidenced by the interest coupons attached and made part of the certificate, and will be paid out of the revenues of the year 19.... which are estimated by the proper authorities to be ample to meet this and all other certificates of this series.

Executed in the City of Baton Rouge, Louisiana, this ..... day of \_\_\_\_\_, 19..., as above set forth.

.....  
Highway Engineer.

Approved:

.....  
Treasurer of the State of Louisiana.

.....  
Secretary of the State of Louisiana.

**CERTIFICATES ARE NEGOTIABLE, ETC.**

Sec. 4. Be it further enacted, etc., That the certificates issued under the terms of this Act shall be negotiable in character and shall constitute between the holders of said certificates, the Highway Department, the Contractor to whom the contract is issued and the Treasurer of the State of Louisiana an irrevocable, bonding and executory contract protected by every guarantee of good faith that same shall be paid out of the funds specially provided to meet the same in interest and principal.

**HIGHWAY DEPARTMENT MUST SELL CERTIFICATES, ETC.**

Sec. 5. Be it further enacted, etc., That whenever a contract is let for the construction of public highway works under the terms of this act, the letting and the execution of such contract by the Highway Department of the State of Louisiana will create such a vested right and binding obligation on the part of the Highway Department as to make it mandatory upon the officials charged with that duty to issue or sell certificates in payment of the work hereabove outlined and described, and no officers of the State of Louisiana charged with such duty shall refuse to issue or sell certificates of indebtedness in payment of said work unless such refusal is based

on non-acceptance of the work or based on a refusal to accept the work for causes that might arise out of faulty construction or out of absolute failure to fulfill the obligation of the contract let.

**SALE TO HIGHEST BIDDER—DEPOSIT OF PROCEEDS.**

Sec. 6. Be it further enacted, etc., That the Highway Engineer and the State Treasurer and the Secretary of State if they conjunctively deem it best to offer for sale and sell to the highest bidder the certificates of indebtedness as above outlined and secured and make same payable to bearer and shall deposit the proceeds of sale of said certificates with the Treasurer of the State of Louisiana to a specific fund for the payment in cash of the work of public improvement outlined under the terms of said act, provided that no such certificates shall be sold at less than ninety-five per cent of the face value thereof, nor run for a period longer than fifteen years from their date, and provided further that these certificates may be sold as an entire issue or as a partial issue, and deliverable after the sale in such manner as in the discretion of the State Highway Engineer, Secretary of State and the State Treasurer may be deemed most advisable, and provided further, that the funds so deposited with the Treasurer may be drawn for the payment of labor, materials, and services, by vouchers signed by the Highway Engineer and countersigned by the Secretary of State and State Treasurer.

**USES OF PROCEEDS.**

Sec. 7. Be it further enacted, etc., That the proceeds of sale of these certificates will be used, first, to pay for the completion of the Chef Menteur Road and Bridges in the Parish of Orleans, St. Tammany, State of Louisiana, and, second, on and after reserving and setting aside an amount necessary to pay for the completion of the Chef Menteur road and for the building of all necessary bridges therefor; to pay for the construction and maintenance of a public highway from Hammond to New Orleans.

**RECORD OF CERTIFICATES ISSUED.**

Sec. 8. Be it further enacted, etc., That the Auditor of Public Accounts shall be furnished by the State Treasurer with, and he shall keep a record of all certificates sold and outstanding against the funds of each and any year and shall keep an accurate account of such specially dedicated funds, and in the event any surplus should arise in any year from the revenues thus derived such surplus shall be dedicated and set apart as a sinking fund to meet the deficiencies of any other year, and should in any year or years the revenues be overestimated by the officials charged with that duty and certificates for that year be issued in excess of the revenues for the year, then any surplus of any year or years will be applied to the liquidation of the excess certificates, and should surplus not fully pay such certificates then the fiscal bank shall provide for their payments by advancing money therefor, and if in the last year for which any certificates are issued any unliquidated ones remain in the Fiscal Bank, there shall be dedicated the revenues herein provided for at least one more year to accomplish said final liquidation.

**SELECTION OF DEPOSITORY.**

Sec. 9. Be it further enacted, etc., That the Secretary of State, State Treasurer and Highway Engineer shall constitute a board who shall let the privilege to become depository of the special funds provided for under the terms of the act and they shall have the discretion to let such funds under such terms and conditions as will provide an advantageous negotiation of the certificates sold and provide always ready funds for the payment of the interest and principal on such certificates. All funds arising from the collection of licenses, fines and penalties as set forth in this act, and all funds arising from the sale of certificates shall be deposited with the Treasurer of the State in a specific fund as set forth and be paid out as herein provided, and no part thereof shall go into the Treasury of the State of Louisiana, and the Treasurer of the State and of this fund is hereby authorized to pay all interest coupons due upon the certificates of indebtedness issued under the

terms of this Act, and all certificates becoming due thereunder. Provided further that the motor vehicle licenses from the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, collected after the certificate of indebtedness provided for in this act are all paid in principal and interest, and after the highways shall have been completed with the funds dedicated for that purpose, shall then revert to the said Parishes and shall be paid into their respective treasuries in the same manner as now provided for under Act 260 of 1914, and in the same manner as said motor vehicle licenses are turned over to the other parishes of this State.

### **CHEF MENTEUR-HAMMOND-NEW ORLEANS STATE HIGHWAY.**

**Act 18, E. S. 1918, p. 23.**

#### **TITLE.**

AN ACT to provide for the laying out, construction and maintenance of the Chef Menteur and Hammond-New Orleans State Highway; to provide a revenue for carrying out the objects and purposes of this Act; to authorize the funding of said revenue into bonds, notes or certificates of indebtedness; to define the duties of the Board of Liquidation of the State Debt of the State of Louisiana, the State Highway Engineer, the State Treasurer, the Secretary of State and the State Auditor in connection therewith; and to provide for a fiscal agent to whom the funds shall be let for deposit; and an act whereas it is intended to have this act ratified by an amendment to the Constitution of the State.

#### **CONTRACTS FOR CONSTRUCTION OF ROAD.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Highway Engineer of the State of Louisiana is hereby authorized to let contracts for the construction and completion of the Chef Menteur Road, commencing at Peoples Avenue, in the Parish of Orleans, and extending to a place in the Parish of St. Tammany at the boundary line between the States of Louisiana and Mississippi, opposite, or nearly opposite, to Logtown, in the State of Mississippi, which said road has already been begun and contracted for, and has been designated as a State Highway by the Highway Department of the State of Louisiana; and for the construction of all such bridges as may be necessary for said road; and for the construction and completion of a model State Highway, on such route as the Highway Department of the State of Louisiana has designated or may deem wise to designate, to extend approximately parallel to the Illinois Central Railroad from Hammond into New Orleans, and in the construction of the necessary bridges upon said highway; provided, that in the construction of the said Hammond-New Orleans Highway no natural drain shall in any way be in the least manner obstructed; and provided further, that said Hammond-New Orleans Highway shall be provided with culverts or other engineering outlet of passing the same volume of water as is now passed or in the future shall be passed by the culverts or other engineering outlets in the roadbed of the Illinois Central Railroad parallel to said Hammond-New Orleans Highway.

That before any such contract is let as herein provided, same shall be approved by the Board of Liquidation of the State Debt of the State of Louisiana.

#### **FUNDS FOR CONSTRUCTION.**

Sec. 2. Be it further enacted, etc., That in order to provide funds for the construction, completion and maintenance of the above mentioned highways, the Secretary of State from and after the first day of January, 1919, shall, as soon after collection as practicable, deposit with the State Treasurer for the account of the Highway Department of the State of Louisiana all motor vehicle licenses collected under the provisions of Act No. 260 of the General Assembly of the State of Louisiana for the year 1914,

approved July 9, 1914, from the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, and the licenses so collected shall be paid by the State Treasurer into a special fund to be known as "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways;" and in addition to the motor vehicle licenses paid into said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways" from the Parishes above enumerated, the State Treasurer shall likewise pay into said fund such portion or sufficient amount out of the Special Road Tax collected under Article 291 of the Constitution of the State of Louisiana of 1913 from the Parish of Orleans as may be necessary to create and maintain in said fund a sum of Sixty Thousand Dollars per year, which said special fund is hereby set apart and dedicated for the purpose of paying any and all contracts heretofore made and hereafter to be made, and any and all bonds, notes or certificates of indebtedness made or issued by the Board of Liquidation of the State Debt of the State of Louisiana to provide moneys for the costs of constructing said highways.

**ISSUANCE OF BONDS.**

Sec. 3. Be it further enacted, etc., That in order to provide ready funds for the payment of the contracts provided for in Section 1 of this Act, the Board of Liquidation of the State Debt of the State of Louisiana shall have authority to issue bonds, notes or certificates of indebtedness in anticipation of the collection and receipt of the taxes, licenses and revenues set apart and dedicated to the said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," payable exclusively from the said special fund, which said special fund is hereby set apart and dedicated to the payment, principal and interest, of any bonds, notes or certificates of indebtedness.

**POWER TO BORROW MONEY, ETC.**

Sec. 4. Be it further enacted, etc., That the Board of Liquidation of the State Debt of the State of Louisiana shall have power to borrow money for the purposes of financing the construction and completion of the said Chef Menteur and Hammond-New Orleans Highways hereinabove referred to, and to that end may issue bonds, notes or certificates of indebtedness in any amount not to exceed the sum of Seven Hundred Thousand Dollars, in such sums and denominations as the said Board shall prescribe, not less than Five Hundred Dollars each, may be registered bonds, notes or certificates of indebtedness, or payable to bearer, as may be preferred, and shall be designated as Chef Menteur and Hammond-New Orleans State Highway Bonds, or Notes or Certificates of Indebtedness; that at the discretion of said Board all or any part of said bonds, notes or certificates of indebtedness shall be payable from one to twenty years. Said bonds, notes or certificates of indebtedness may contain such provisions as may be deemed expedient for registration in the name of the holder, or for the release thereof from registration; shall bear interest at a rate not exceeding five per centum per annum, payable at such time or times as the Board may prescribe and the place or places of payment of principal and interest shall be fixed by the said Board. Said bonds, notes or certificates of indebtedness shall be sold to the highest bidder at public sale at not less than par, after thirty days advertisement by the Board of Liquidation of the State Debt of the State of Louisiana in New Orleans, Chicago, and New York; and the money arising from the sale thereof shall be paid to the State Treasurer to the account of the Highway Department of the State of Louisiana, and to the credit of the "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," and only paid out on the warrant of the State Highway Engineer approved by the President of the Board of State Engineers. Said bonds, notes or certificates of indebtedness shall be signed by the Governor, the Auditor and the Treasurer of the State. Any coupons attached thereto shall bear the fac-simile signature of the Treasurer of the State. Any bonds, notes or certificates of indebtedness issued by virtue hereof, shall be and are hereby declared to have the

qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be uncontested in the hands of bona fide purchasers or holders thereof. No proceedings in respect to the issue of any such bonds, notes or certificates of indebtedness shall be necessary, except such as are required by this Act.

**STATE HIGHWAY FUNDS.**

Sec. 5. Be it further enacted, etc. That the funds collected annually and directed to be set apart and paid into "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," under the provisions of this Act, and by this Act directed to be applied to the construction of the said Chef Menteur and Hammond-New Orleans State Highways, are hereby pledged to pay the principal and interest on said bonds, notes or certificates of indebtedness as the same shall become due and payable, and it shall be the duty of the Treasurer of the State of Louisiana to transfer from said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highway" to the credit of a special account to be known as the "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highway Bonds, Interest and Redemption Account," out of the first funds collected and received for the said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," a sum sufficient to pay the principal and interest upon any bonds, notes or certificates of indebtedness issued hereunder, that may have been sold and delivered for the period of one year ensuing, and to maintain in said special accounts styled "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highway Bonds, Interest and Redemption Account," at all times from said source, a sum equal to one year's principal and interest upon the said bonds, notes or certificates of indebtedness, and also sufficient to pay all bonds, notes or certificates of indebtedness issued hereunder which shall become due and payable during the year next ensuing. After any bonds, notes or certificates of indebtedness authorized hereby shall have been issued and delivered, no part of said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," shall be applied to any of the purposes authorized herein until the said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highway Bonds, Interest and Redemption Account" shall have been created, and the State Treasurer shall have transferred into it, the funds hereby directed to be transferred.

**PURPOSES FOR WHICH FUNDS SHALL BE USED.**

Sec. 6. Be it further enacted, etc., That the proceeds of the sale of all bonds, notes or certificates of indebtedness issued hereunder shall be used first to pay for the construction and completion of the Chef Menteur Road and bridges in the Parishes of Orleans and St. Tammany, State of Louisiana, and second, on and after reserving and setting aside the amount necessary to pay for the completion of the Chef Menteur Road and for building all necessary bridges therefor, to pay for the construction of the said public highway from Hammond to New Orleans, and the building of all necessary bridges therefor.

**RECORD TO BE KEPT BY AUDITOR.**

Sec. 7. Be it further enacted, etc., That the Auditor of the State of Louisiana shall keep a record of all bonds, notes or certificates of indebtedness sold or outstanding, and shall keep an accurate account of all such specially dedicated funds.

**SELECTION OF DEPOSITORY.**

Sec. 8. Be it further enacted, etc., That the Board of Liquidation of the State Debt of the State of Louisiana shall let the privilege to become depository of the special funds provided for under this Act and said Board shall have the discretion to let such funds under such terms and conditions as will provide an advantageous negotiation of the bonds, notes or certif-

cates of indebtedness sold, and provide always ready funds for the payment of the principal and interest on such bonds, notes or certificates of indebtedness. All funds collected under the provisions of this Act, which have been set apart and dedicated to the said "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," or which may hereafter be set apart or dedicated for the construction and maintenance of the above mentioned highways, and all funds arising from the sale of said bonds, notes or certificates of indebtedness, shall be deposited with the Treasurer of the State in a special fund as set forth, to be paid out as herein provided, and the Treasurer of the State is hereby authorized to pay out of said fund, all interest coupons due upon the said bonds, notes or certificates of indebtedness issued under the terms of this Act, and all bonds, notes or certificates of indebtedness becoming due hereunder.

**MOTOR VEHICLE LICENSES.**

Sec. 9. Be it further enacted, etc., That the motor vehicle licenses from the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, collected after the bonds, notes or certificates of indebtedness provided for in this Act are fully paid, principal and interest, and after the highways shall have been completed with the funds dedicated for that purpose, shall then revert to said Parishes, and shall be paid into their respective treasuries in the same manner as now provided for under Act No. 260 of the General Assembly of the State of Louisiana for the year 1914, and in the same manner as the said motor vehicle licenses are turned over to the other Parishes of this State, and thereafter said Parishes shall provide out of said funds so reverting to them the proper maintenance of said highways; provided further, that any portion of the Special Road Tax of one-fourth of one mill on the dollar collected under Article 291 of the Constitution of 1913 from the Parish of Orleans, not set apart or dedicated to the "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways," at the expiration of any fiscal year shall revert to the "State Highway Fund" as provided for in Act No. 49 of the General Assembly of the State of Louisiana for the year 1910, and be applied in such manner as shall be now or hereafter provided by law.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all laws inconsistent with or in conflict with the provisions of this Act are hereby repealed.

**SUBMISSION OF AMENDMENT TO CONSTITUTION.**

Sec. 11. Be it further enacted, etc., That at the next Congressional election to be held in this State on the first Tuesday after the first Monday of the month of November 1918, there shall be submitted to the electors of the State the following amendment to the Constitution, to-wit:

The General Assembly shall provide for the laying out, construction and maintenance of the Chef Menteur and Hammond-New Orleans State Highways and shall provide, by bond issue or otherwise, the financing of the construction and completion of said highways. And all provisions of the Constitution in conflict herewith are to this extent repealed, and Act No. — of the Extra Session of the General Assembly of the State of Louisiana for the year 1918, entitled "An Act to provide for the laying out, construction and maintenance of the Chef Menteur and Hammond-New Orleans State Highways, etc., etc., is ratified and approved.

**FORM OF SUBMISSION.**

Sec. 12. Be it further enacted, etc., That on the official ballots to be used in said election, shall be placed the words, "For the Amendment providing for the laying out, construction and maintenance of the Chef Menteur and Hammond-New Orleans State Highways," and the words "Against the Amendment providing for the laying out, construction and maintenance of the Chef Menteur and Hammond-New Orleans State Highways," and each elector shall indicate his vote on the proposed amendment as provided by the General Assembly of this State.

The amendment was adopted at the election held November 5, 1918.

## HOMESTEADS AND EXEMPTION.

[R. S., Secs. 1691, 1692.] Exemption of certain property to extent of \$2,000 exempt from seizure and sale, except for taxes, purchase price, etc. C. P., Art. 645, part 2.

[R. S., Secs. 1693, 1694.] Homestead of widows and minors in necessitous circumstances, widow's usufruct, etc. R. C. C., Art. 3252, part 7.

[R. S., Secs. 1695, 1696.] Exemption of right of personal servitude; corn fodder, etc., for conduct of plantation, exempt. C. P., Arts. 644, 645, part 1.

### EXEMPTION FROM SEIZURE—AMENDMENT C. P. 644.

#### Act 79 of 1876, p. 123.

##### TITLE.

AN ACT to amend Article 644 of the Code of Practice; to repeal all laws contrary to or in conflict with this Act and all laws on the same subject matter; the amendment of Article 644 of the Code of Practice; to fix penalties for the violation of this Act, and to fix the limits of this Act and the interpretation to be given it.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That Article 644 of the Code of Practice be so amended as to read as follows: "The sheriff or constable can not seize the linen and clothes belonging to the debtor or his wife, nor his bed, bedding or bedstead, nor those of his family, nor his arms and military accoutrements, nor the tools and instruments, and books, and sewing machines necessary for the exercise of his or her calling, trade or profession by which he or she makes a living, nor shall he in any case seize the rights of personal servitude, of use and habitation, of usufruct to the estate of a minor child, nor the income of dotal property, nor money due for the salary of an officer, nor laborer's wages, nor the cooking stove and utensils of the said stove, nor the plates, dishes, knives and forks, and spoons, nor the dining table and dining chairs, nor wash tubs, nor smoothing irons and ironing furnaces, nor family portraits belonging to the debtor, nor the musical instruments played on or practiced on by any member of the family.

Sec. 2. Be it further enacted, etc., That any person offending against the provisions of this Act, or who shall by any artifice or subterfuge induce or procure another to sign away, by contract or otherwise, any of the rights which he or she may have under this Act, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not exceeding two hundred dollars, or imprisonment for a term not exceeding six months, or both, at the discretion of the court.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws conflicting with this Act or contrary to any of its provisions, and all laws on the same subject matter, the amendment of Article 644 of the Code of Practice, be and are hereby repealed.

Sec. 4. Be it further enacted, etc., That the repealing clause of this Act shall not be construed or interpreted so as to affect the exemption of the homestead, the widow's one thousand dollars, nor the rural and agricultural exemptions now in force by existing laws, it being the true meaning and intent of this Act that those exemptions should not be affected by this Act.

**Sec. 5.** Be it further enacted, etc., That this Act shall take effect from and after its passage.

**Note.** A creditor issued garnishment process against the debtor of his debtor, the latter being a locomotive passenger engineer. Held that the wages of the latter were not exempt and the officer making the seizure and the creditor being arrested and fined for making it, would on certiorari be released. *State ex rel Heidingsfeld et al vs. Hicks, Judge, 108 L. 113.*

Mechanical engineers, electrical engineers, clerks, agents, cashiers of banks, bookkeepers, and all that class of employees whose employment requires mental labor and skill are not considered as laborers. The exemption from seizure protects laborers on farms, plantations, factories and other places where workmen possess no particular skill. *State ex rel. I. X. L. Grocery Co. vs. Land, 108 L. 512.* Railroad switchman is a laborer. *Schroeder vs. Collins, 113 L. 778.*

Property (Law Books) pledged is not exempt. The act does not deprive the owner from pledging his property, it was the pledge not the seizure which deprived him of the property. *Kyle vs. Sigur, 121 L. 888.* The Law Books of an attorney are exempt (*Lambeth vs. Milton, 2 Rob. 81*), so are books used by a minister of the Gospel (*State vs. St. Paul, 111 L. 71*). Commercial books and sometimes house furniture including a safe (*Farmers & Merchants Bank vs. Franklin, 1 A. 393*). Printing press and material of a printer and editor, (*Prather vs. Bobo, 15 A. 524*), all are exempt. A horse used by a physician is not exempt (*Hanna vs. Bory, 5 A. 651*); nor is the machinery of an extension factory, (*Boston Belting Co. vs. Ivens, 28 A. 665*). The property of a partnership is not exempt. *White & Barret vs. Hefner, 30 A. 1280.* Property seized and claimed to be exempt cannot be released by the judge on an ex parte application. *Chaplin & Co. vs. Lesso & Sheen, 31 A. 171.* When a surety seeks to qualify and states he possesses household furniture sufficient, etc., without describing it, etc., presumption is that the greatest part is exempt. *State ex Hollyland vs. Judge, 31 A. 787.* But the exemption under this act does not apply to claims of lessees for rent. *Stewart vs. Laconne, 30 A. 157.*

## EXEMPTION OF LIFE INSURANCE POLICIES, ETC.

**Act 88 of 1916, p. 206.**

### TITLE.

**AN ACT** to amend and re-enact Act No. 189 of the General Assembly of 1914, approved July 9, 1914, entitled "An Act to exempt the proceeds of life, including fraternal and co-operative, health and accident insurance from liability for debt."

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That Act No. 189 of the General Assembly of 1914 be amended and re-enacted so as to read as follows:

**AN ACT** to exempt the proceeds or avails or dividends of all life, including fraternal and co-operative, health and accident insurance from liability for debt.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the proceeds or avails or dividends of all life, including fraternal and co-operative, health and accident insurance shall be exempt from all liability for debt, except for a debt secured by a pledge of policy, or any rights under such policy that may have been assigned; or any advance payments made on or against such policy.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## RECORDING HOMESTEADS AND EXEMPTIONS.

**Act 114 of 1880, p. 140.**

### TITLE.

**AN ACT** to carry out the provisions of Articles 219 and 220 of the Constitution in relation to recording homesteads and exemptions.

Be it enacted by the General Assembly of the State of Louisiana, The person or persons claiming the benefit of the homestead and exemptions provided by law, pursuant to Articles 219 and 220 of the Constitution of 1879, must execute a written declaration of homestead. This declaration must contain (1) a statement of the facts that show the person claiming the homestead and exemptions is a person of the description to be entitled thereto; (2) a statement that the person claiming it is residing on the land or

lot claimed as homestead and owns it by bona fide title, stating the nature of the title; (3) a description of the lot or tract of land; (4) an enumeration of the other exemptions; (5) an estimate of the cash value of the homestead and exemptions, a statement of intention to claim such homestead and exemptions. The declaration must be sworn to and recorded in the book of mortgages for the parish where the homestead claimed is situated.

**Note.** Under Const. 1913, Arts. 244, 247, record is necessary only in Parish of Orleans. All parties entitled to homestead may waive exemption by recording waiver—for all or part—signed by wife not separated a mensa et thoro. Waiver effective only from date of recording.

**Note.** Act 114 of 1880 remained in force in the Parish of Orleans under the Constitution of 1898 and 1913. The registry of the homestead does not affect the rights of those who became creditors before the registry of the exemption. Clarke vs. Natal, 138 L. 1038. Waiver by mortgage, failure to register. Freege vs. Fulton, 120 L. 750.

## HOUSES OF PUBLIC ENTERTAINMENT AND AMUSEMENT.

[R. S., Secs. 1697 to 1700, inclusive.] Refer to civil rights of persons on conveyance of common carriers, public buss, etc. Provide that licenses hereafter issued shall contain express conditions that the place of business will be open to all persons without determination as to color, etc., and damages which may be recovered, etc. R. S., Secs. 456 to 459, inclusive, title "Civil Rights."

### WEARING HATS IN THEATERS, ETC.

#### Act 62 of 1896, p. 95.

##### TITLE.

AN ACT making it a misdemeanor for any owner, lessee, proprietor, or manager of any theatre, hall, place, opera house or building where theatrical or other performances are given and where an admission fee is charged to permit any person or persons to wear, during the performance in such theater, hall, opera house or building, a hat; requiring such owner, lessee, proprietor or manager to provide a safe place to keep hats or headgear, and to furnish an attendant therefor, and providing a penalty for violation of this Act.

##### WEARING HATS DURING PERFORMANCES, ETC.; EXCEPTIONS.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any owner, lessee, proprietor or manager of any theater, hall, place, opera house or building where theatrical or other performances are given and where an admission fee is charged, who permits or suffers any person or persons during the performance in such theater, hall, place, opera house or building where such performance is given, to wear a hat or any kind of headgear, opera or evening bonnets excepted, provided the same shall not obstruct the view of persons sitting behind the wearer of same, shall be guilty of a misdemeanor, and shall, upon conviction, be subjected to a fine not exceeding twenty-five dollars for each violation thereof, or imprisonment for not more than thirty days, at the discretion of the court in whose jurisdiction the offense was committed.

##### EACH ACT IS SEPARATE OFFENSE.

Sec. 2. Be it further enacted, etc., That every such hat or headgear permitted to be worn in violation of the provisions of this Act shall constitute a separate offense.

**OWNER, ETC., OF THEATER MUST PROVIDE PLACE FOR SAFEKEEPING OF HATS.**

Sec. 3. Be it further enacted, etc., That every owner, lessee, proprietor or manager of any theater, hall, place, opera house or building where theatrical or other performances are given and an admission fee is charged, shall provide a safe and proper place for the safekeeping of all hats or other headgear of any person or persons attending such performance, and shall also furnish an attendant at his, or their, own expense, who shall take care of all hats or other headgear entrusted to him, without expense to the person or persons attending such performances; and each violation of the section shall be punishable by fine or imprisonment as provided in Section 1 hereof.

**WHEN ACT GOES INTO EFFECT.**

Sec. 4. Be it further enacted, etc., That this Act shall take effect from and after its passage.

**TO REGULATE SEATING PERSONS IN THEATRES, ETC.**

**Act 72 of 1908, p. 87.**

**TITLE.**

AN ACT making it a misdemeanor for any owner, lessee, proprietor or manager of any theater, hall, place, opera house or building where theatrical or other performances are given and where an admission fee is charged, to permit any person or persons, after the curtain has arisen on the performance to take seats and disturb the persons already seated in such theater, hall, place, opera house or building, and requiring such owner, lessee, proprietor or manager to compel such person or persons to remain in the rear of said theater, hall, place, opera house or building until an intermission between the acts, and providing a penalty for the violation of this Act; provided, that this Act shall only apply to cities containing a population of fifty thousand or over.

**TAKING SEATS AFTER CURTAIN HAS RISEN, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any owner, lessee, proprietor or manager of any theater, hall, place, opera house or building where theatrical or other performances are given and where an admission fee is charged, in any city containing a population of fifty thousand or over, who permits or suffers any person or persons after the curtain has arisen on the performance in such theater, hall, place, opera house or building, to take seats and disturb the persons already seated in said theater, hall, place, opera house or building, shall be guilty of a misdemeanor and shall, on conviction, be subjected to a fine of not more than twenty-five dollars for each violation thereof, or imprisonment for not more than thirty days, at the discretion of the courts in whose jurisdiction the offense was committed.

**EACH VIOLATION A SEPARATE OFFENSE.**

Sec. 2. Be it further enacted, etc., That the seating of every person in violation of the provisions of this Act shall constitute a separate offense.

**RELATED PATRONS MUST REMAIN IN THE FOYER, ETC., UNTIL INTERMISSION.**

Sec. 3. Be it further enacted, etc., That every owner, lessee, proprietor or manager of any theater, hall, place, opera house or building where theatrical or other performances are given and where an admission fee is charged shall compel all persons arriving in said theater, hall, place, opera house or building after the curtain has arisen on the performance, to remain in the foyer or rear of said theater, hall, place, opera house or building until an intermission between the acts; and each violation of this section shall be punishable by fine or imprisonment as provided in Section 1 hereof.

**WHEN ACT GOES INTO EFFECT.**

Sec. 4. Be it further enacted, etc., That this Act shall take effect from and after its promulgation.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or part of laws in conflict herewith be and the same are hereby repealed.

[R. S., Secs. 1701, 1702.] Iron safes in hotels, landlord not liable for money, etc., not deposited with him when he provides iron safe. R. C. C., Arts. 2968, 2969.

**KNOTTED ROPES IN HOTELS, ETC.**

**Act 107 of 1877 (E. S.), p. 179.**

**TITLE.**

AN ACT requiring hotel keepers and keepers of houses of public entertainment to provide knotted ropes in each room fronting on streets or alleys or avenues of escape, and to fix a penalty for violating the provisions of this Act.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That every keeper of a hotel or house of public entertainment of two or more stories in height shall keep constantly provided in each room fronting on any street, alley or opening to an avenue of escape a knotted rope of sufficient length to extend to the ground, of not less than three-quarters of an inch in diameter, said rope to be made of cotton and to be saturated in a solution of alum or other non-combustible material.

Sec. 2. Be it further enacted, etc., That notices shall be kept posted on the inside of all bedroom doors notifying tenants of the presence of the said ropes and their use.

Sec. 3. Be it further enacted, etc., That any hotel keeper or keeper of any house of public entertainment who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of five hundred dollars.

Sec. 4. Be it further enacted, etc., That this Act shall take effect from and after thirty days after its passage.

[R. S., Sec 1703] Licenses which hotels, etc., shall pay; now regulated by acts printed under title "Revenue and Taxation."

[R. S., Sec. 1704.] Keeping a disorderly house, brothel, etc. R. S., Sec. 908, title "Crimes and Offenses."

**[Harboring Deserters From Merchant Vessels.]**

[R. S., Sec. 1705.] If the keeper of any tavern, lodging or boarding house shall knowingly receive, harbor, lodge or conceal any deserter from any merchant vessel, he shall on conviction pay a fine of one hundred dollars, or be imprisoned not exceeding thirty days.

## HUSBAND AND WIFE.

[R. S., Secs. 1706 to 1708, inclusive.] All relate to legal mortgage of wife on property of husband. R. C. C., Arts. 2378 to 2380, inclusive.

[R. S., Sec. 1709.] Property acquired in this State by non-residents subject to community of acquests and gains. R. C. C., Art. 2400.

[R. S., Secs. 1710, 1711.] Surviving spouse has life usufruct of share of deceased in community property where there is no will and no ascendants or descendants; when there is issue, usufruct is only until second marriage. R. C. C., Arts. 915, 916.

*Note.* R. C. C., Art. 915 has been amended so as to give survivor full ownership instead of usufruct.

[R. S., Sec. 1712.] Compiling of witnesses. R. C. C., Art. 2281.

[R. S., Secs. 1713 to 1715, inclusive.] How married woman may contract debts, grant mortgages, etc. R. C. C., Arts. 126 to 128.

*Note.* See Act 94, 1916, p. 212, printed under title "Women."

[R. S., Sec. 1716.] Widows and unmarried women may bind themselves as sureties. R. C. C., Art. 25.

[R. S., Secs. 1717, 1718.] Remuneration by woman of paraphernal, etc., rights. Right of married woman to appoint agent for certain purposes, etc. R. C. C., Arts. 129, 130.

[R. S., Sec. 1719.] Right of wife married in this State to sue here for separation of bed and board, etc., for acts committed elsewhere. R. C. C., Art. 142.

[R. S., Sec. 1720.] Fine for marriage of one having living spouse, unless spouse absent for five years or divorced. R. S., Sec. 800, title "Crimes and Offenses."

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## IMMIGRATION.

[R. S., Secs. 1721 to 1737, inclusive.] Are repealed by Act 154, 1874, p. 271. The whole subject has now been consolidated by the legislature with agriculture, and the subject, including all acts relating thereto, are printed under title "Agriculture and Immigration."

## IMPEACHMENT.

### [Memorial to Legislature.]

[R. S., Sec. 1738.] Whenever any person shall wish to accuse a public officer before the Legislature, he shall address the House of Representatives a memorial containing a brief exposition of the acts of such public officer which are supposed to be contrary to law; the memorial shall be sworn to and signed by him who presents it, and shall contain a list of the individuals who can give information relative to the facts set forth, with a notice of the several charges which each individual included in the list can substantiate by his testimony.

### [Reference Thereof to Committee.]

[R. S., Sec. 1739.] Whenever a memorial of the nature of the one mentioned shall be submitted to the House of Representatives, it shall be referred to a committee, who, after having examined the memorial and the accompanying documents, shall cause the public officer accused, as aforesaid, with the witness for the prosecution, to be cited to appear at a subsequent period, either during the same session of the Legislature, or any subsequent session thereof, according as said committee may deem expedient, taking into consideration the time that the General Assembly still has to sit. The accused may also, on his part, apply to the committee to obtain the necessary citations for the witnesses he may wish to summon in his defense.

### [Proceedings Before Committee.]

[R. S., Sec. 1740.] At the appointed time the committee shall proceed to swear and examine the witnesses, both for and against the accused, whose testimony shall be taken down in writing; they shall then make their report to the House of Representatives, and shall declare in the conclusion whether they are of opinion that the charges are well founded; in which case the House itself, after having obtained all necessary information, shall decide whether it be expedient to proceed by means of impeachment or by address. In case the committee shall make a report in favor of the accused, the adoption of the report by the House shall be sufficient, and the accused shall be discharged, and can never after be brought before the Legislature for the same acts with which he has been already charged.

### [Testimony by Commission—When.]

[R. S., Sec. 1741.] Whenever in the opinion of the committee the witnesses shall reside at such a distance that their attendance at the seat of government must give rise to great expense and loss of time, the said committee shall prepare interrogatories and take their testimony by commission as in judicial proceedings of the parish in which the witness may reside, who shall, on the receipt of the interrogatories, cause to appear be-

fore him the witness to whom they are propounded, and, having administered the oath to him, shall take down in writing his answers and make him sign them. The interrogatories thus prepared by the committee shall, previous to their being sent as aforesaid, be communicated to the accused or his counsel, who shall have a right to add his cross-interrogatories, to which the witness is equally bound to answer. The accused on his part shall be allowed to submit to the committee such interrogatories as he may wish to be propounded to witnesses in his behalf, and it shall be the duty of the committee, after having added such cross-interrogatories as they shall deem proper, to direct the whole as aforesaid, that it may be proceeded upon in the same manner.

[**Enforced Attendance of Witnesses.**]

[R. S., Sec. 1742.] The magistrate to whom the interrogatories shall be directed, as stated in the foregoing section, may employ all such means as are allowed by law to compel a witness to appear, and may condemn to a fine of not less than fifty dollars and not exceeding one hundred, or to an imprisonment not exceeding ten days, any witness for or against the accused, who, being duly cited, shall have refused to attend, or who, having attended, should refuse to answer to the interrogatories or sign his answers.

[**Costs, By Whom Paid.**]

[R. S., Sec. 1743.] Whenever the culpability of a public officer shall be ascertained, either by the sentence of the Senate or by the concurrence of both Houses, agreeable to the Constitution, all the costs arising from the investigation and prosecution of his suit shall be paid by said officer, which shall be recovered by a suit to be instituted against the party condemned, by the District Attorney; and in order that the provisions of this section shall have full effect, it shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives, to make out a full statement of all costs incurred in the prosecution which shall come to their knowledge, and hand over the same to the District Attorney.

[**Costs By Defendant.**]

[R. S., Sec. 1744.] In case the public functionary against whom an accusation shall be brought should resign his office pending the inquest which shall have been ordered by the House, he shall be bound to pay all the costs which shall have been incurred until that time, to be recovered in the manner provided by the foregoing section.

[**At Close of Session Pending Cases Go To Next Legislature.**]

[R. S., Sec. 1745.] All accusations pending before the Legislature at the time of their adjournment shall be prosecuted and continued by the next Legislature.

**INEBRIATES.****Act 100 of 1890, p. 116.****TITLE.**

AN ACT to provide for the interdiction of inebriates or habitual drunkards and to vest the jurisdiction in said cases in the Civil District Court of the parish of Orleans and in the District Courts of other parishes.

**WHO MAY BE INTERDICITED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any person who is an inebriate or habitual drunkard and by reason of said infirmity shall be unable to support himself or his family, shall be liable to be interdicted, and shall be placed in the custody and care of a curator, who shall have full authority and control of the person of said inebriate with power to place him in a hospital or other institution for the treatment and cure of said infirmity.

**HOW INTERDICTION OBTAINED.**

Sec. 2. Be it further enacted, etc., That said interdiction may be obtained and such curator appointed at the suit of any member of the family or friend of the inebriate, and the curator shall have all the authority and control now conferred by law on curators or interdicted persons upon furnishing bond and complying with formalities and requirements of law now relating to the appointment and qualifications of curators of interdicted persons.

**WHAT COURTS HAVE JURISDICTION.**

Sec. 3. Be it further enacted, etc., That the Civil District Court for the Parish of Orleans is clothed with jurisdiction to grant such interdiction and appoint such curators for inebriates domiciled in the Parish of Orleans, and the District Courts of each parish of the State, shall have like jurisdiction in respect to inebriates domiciled in said parish.

All laws or parts of laws now existing in conflict with the provisions of this bill are hereby repealed.

**Note.** An inebriate or "habitual drunkard" is a person who has acquired the habit of drinking intoxicating liquors or taking narcotic drugs to such an extent as to deprive him of reasonable self control. A person cannot be interdicted for profligacy. Interdiction of Gasquet, 136 L. 957. (This was a warmly contested case and the subject is fully considered). See also State vs. McIntosh, 136 L. 1000.

**TREATMENT AND CARE OF HABITUAL DRUNKARDS.****Act 157 of 1894, p. 196.****TITLE.**

AN ACT to provide for the treatment and care of habitual drunkards or inebriates, or other persons addicted to the intemperate use of alcohol, morphine, cocaine or other narcotics; and to provide for the payment thereof by cities, parishes and municipalities in this State.

**APPLICATION FOR TREATMENT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any inhabitant of this State who is of kin to or a friend of an habitual drunkard, as hereinafter defined, may petition the District Court of and for the parish of the residence of such person, or the Civil District Court for the Parish of Orleans, for leave to send such person at the expense of said parish or city, to such institute for the cure of inebriates for the medical treatment of drunkards and morphinism as the said court may designate.. Which petition shall set forth the name, age and condition of such person, and that such person or those of his kin petitioning are not financially able to incur the expense of his cure, and shall set forth that said person is willing and will agree to attend such institution for the cure of drunkenness and morphinism; which petition

shall be verified by the person making such request, and shall contain in addition thereto the written agreement of such person to take such treatment and to abide by the rules of said institute for the cure of inebriates; and together with the names of three (3) taxpayers in the parish or city of his residence, stating that they are familiar with the facts set forth in the petition, and that they are familiar with the financial condition and circumstances of such person and of the petitioning kin, and deem it a proper case for assistance from the parish or city wherein the said person resides.

**PERSONS ENTITLED TO TREATMENT, ETC.**

Sec. 2. Be it further enacted, etc., That when such petition is filed, any judge of the courts referred to in Section 1, if satisfied from examination that the facts set forth in the petition are true, and that the said person has been a resident of the parish or city named in said petition for one year next preceding the application, and that such person of his free will desires to take such treatment, then such person shall be sent to an institute for the cure of inebriates for the cure of drunkenness or morphinism, provided said institution is located in the State of Louisiana, and that the managers of such institution will agree to treat such person for a sum not to exceed one hundred dollars (\$100.00); and the judge of the said court shall thereupon make an order that the expense of such treatment shall be paid out of the treasury of the parish or city named in said petition, as the case may be, in the same manner that other claims against such parish or city for the administration of justice are paid.

**INSTITUTIONS FOR TREATMENT.**

Sec. 3. Be it further enacted, etc., That officers of such institute for the cure of inebriates, as may be designated for the treatment of such persons,—payment for whose cure is provided by this Act,—shall become sworn officers of the court committing such person to their care, and shall have authority to enforce such reasonable rules as may be necessary for the administration of proper treatment to the patient entrusted to their care, but they shall receive no fee or compensation from any parish or city other than the sum provided for and limited by Section 2 of this Act.

**MEANING OF WORD DRUNKARD.**

Sec. 4. Be it further enacted, etc., A drunkard, as mentioned in the foregoing sections of this Act, shall be deemed to include any person who has acquired the habit of using spirituous, malt or fermented liquors, cocaine or other narcotics, to such an extent or degree as to deprive him of reasonable self-control.

*Note.* The Constitution does not prohibit the General Assembly from requiring the Parishes to pay the expense of treatment at the Keeley Cure Institute of persons contemplated by Act 157, 1894. Webster vs. Police Jury, 51 A. 1204. Where the claim for treatment is only \$100, and the court below held the Act (157—1894) constitutional, the Supreme Court is without jurisdiction. Young vs. City of Crowley, 131 L. 780. See State vs. McIntosh, 136 L. 1002. Interdiction of Gasquet, 136 L. 987.

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**INJUNCTIONS.**

[R. S., Sec. 1746.] District Judges have authority to grant injunctions, etc., at chambers.

[R. S., Sec. 1747.] Parish judges have authority to grant injunctions in absence of district judges. There are no parish judges under existing judiciary system.

**[R. S., Sec. 1748.]** When the sale of specific property is enjoined by the defendant or any third party, the bond shall be for an amount one-half over and above the estimated value thereof, as certified to by the officers making the seizure.

**[R. S., Secs. 1749 to 1752, inclusive.]** When purchaser of property seized may obtain injunction. Injunction to stay execution of judgment on plea of payment, etc. Bond required, etc. C. P., Art. 298, Nos. 9, 10.

**[Bonds Must Be Furnished Before Writ Issues.]**

**[R. S., Sec. 1753.]** It shall be the duty of the several clerks of the District Courts, before they issue any writ of injunction, to take from the party requiring the same a bond, with one or more good securities in the amount fixed by the Judge granting the order conditioned as the law requires.

Note. Act 106, 1880, p. 134, Sec. 3; Act 43, 1882, p. 54, Secs. 4, 6, as to powers of Clerks on issuing writs of injunction, printed at p. 243, title "Clerks."

The blank space left in the bond in which the amount was to be inserted, was not filled. Held, that it was not such a defect as could be cured and dissolved the injunction. Speyrer vs. Constable et al., 108 L 204. (The opinion fully discusses how far errors of this character may be remedied and the writ saved).

**[R. S. Secs. 1754, 1755.]** Trials of injunctions; rights of surety, of third persons obtaining writ. C. P. 304.

**[R. S., Sec. 1756.]** Courts are prohibited to issue injunctions to prevent sales for taxes. Governed by legislation printed under title "Taxation."

**[R. S., Secs. 1757, 1758.]** Jurisdiction of Third District Court of Orleans. Court not known under present judiciary system.

**[R. S., Sec. 1759.]** Directing that C. P., Art. 304, be changed as to manner of taking security by judges. Change embodied in existing Art. 304 of Code of Practice.

**INJUNCTIONS WILL NOT ISSUE AGAINST STATE OR ITS LESSEES.**

**Act 29, E. S. 1915, p. 61.**

**TITLE.**

AN ACT prohibiting the issuance of writs of injunction to restrain the exploitation of lands, river and lake bottoms, for oil, gas or other minerals where such lands or bottoms are owned or claimed by the State and where the State has leased the same for such exploitation; prescribing the remedy of the plaintiff in suits brought against the lessees, officers or employees of the State; providing a method by which the defendant in any such suit may release the product, or the proceeds of the sale of the product, obtained from such property; providing for the sale of such soil and for the deposit of the proceeds of such sale or sales at interest pending the final termination of the litigation; and repealing all laws in conflict or inconsistent herewith.

**WHERE WRIT WILL NOT LIE, SEQUESTRATION, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the writ of injunction shall not lie in any suit brought against the lessees of the State, or the officers or employees of the State to restrain the exploitation for oil, gas, or other mineral, of lands, river bottoms, or lake bottoms, the ownership of which is in the State; but in all such cases the remedy of the plaintiff in such suit shall be confined to a demand that the product of such exploitation, or the proceeds of the sale thereof, shall be judicially sequestered, until the rights of all persons asserting any lawful claim to such product or proceeds shall be determined.

**BONDING OF SEQUESTRATION BY DEFENDANT.**

Sec. 2. Be it further enacted, etc., In all such cases the party defendant may release the product or the proceeds of the sale thereof from such judicial sequestration on giving a bond payable to the Clerk of the Court, with solvent and sufficient surety, in a sum equal to the value of the product or proceeds, such bond to be fixed in amount and approved by the court, and conditioned to require the defendant to account to the plaintiff only for the value of the oil at the date of its release, with legal interest from said date in the event that final judgment should be rendered in such suit against the defendant.

**INTERLOCUTION TO SELL OIL, ETC.**

Sec. 3. Be it further enacted, etc., That at any time prior to the release of oil on bond, as herein provided, the judge of the District Court in which any such suit may be pending, may on application by either party to such suit, and after due hearing, issue an interlocutory decree ordering the sheriff to sell the oil so sequestered at the highest market price then obtainable and to deposit the proceeds of such sale or sales in a separate account in such bank or banks to be designated by court, which will pay the highest rate of interest on such deposits pending the final termination of the litigation.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws or parts of laws inconsistent or in conflict herewith be and the same are hereby repealed.

**RIGHT OF PLAINTIFFS, ETC., TO BOND INJUNCTIONS.**

Act 109 of 1890, p. 137.

**TITLE.**

AN ACT allowing plaintiffs in injunction and third opponents to bond the property seized in certain cases.

**PARTIES WHO MAY BOND INJUNCTION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the plaintiff in injunction claiming the property or the third opponent claiming the property, whatever be the writ or process under which the property was seized, may, after the expiration of ten days from the filing of the petition of injunction or third opposition, have the property released to him, on condition that he shall execute bond in favor of the sheriff for the benefit of the persons interested, in solido, with one or more good and sufficient sureties, domiciliated in the parish, for an amount one-half over and above the value of the property, conditioned that the principal in the bond shall faithfully deliver the property or pay the amount of the bond whenever lawfully called upon to do so; which said bond shall be filed in the office from which the writ is issued, within ten days after the date thereof, and upon a forfeiture of said bond, which fact shall be made to appear by the certificate of the officer charged with the execution of the writ, the same shall have effect as a twelve months' bond, and execution shall issue thereon on application of the person or persons interested against all the parties to said bond; provided, nothing

in this Act shall be construed as interfering with the rights of other persons who may have bonded the property, according to law, prior to the filing of the petition of injunction or third opposition, nor with the rights of other persons to bond said property according to law.

#### **SURETY ON BOND, EXCEPTION TO SURETY, ETC.**

Sec. 2. Be it further enacted, etc., That upon the depositing of the forthcoming bond in the clerks' office the sheriff shall give notice in writing to the other parties to the proceedings, or to their attorneys, and within twenty days after the service of such notice the plaintiff and defendant, or either of them, may except to the surety accepted by the sheriff, as being insolvent and insufficient, by suing out a rule in open court or in chambers, calling on the sheriff to show cause, ten days after being notified of the same, why he and his sureties should not be made liable personally to the party or parties suing out the rule for the debt, in the same manner as the security received by the sheriff would have been had he proved good and sufficient. Those proceedings shall be had before the court having jurisdiction of the writ under which the seizure may have been made.

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## **INSANE ASYLUM.**

### **[Establishment of—Name.]**

[R. S., Sec. 1760.] (As amended by Act 174, 1910, p. 259.) There shall be established in the Town of Jackson, Parish of East Feliciana, a hospital for the insane to be called "The East Louisiana Hospital for the Insane."

Note. R. S., Sec. 1760, as it stood originally, established the "Insane Asylum of the State of Louisiana," and the Act 146 of 1898, printed infra, provided for its administration under that name. The amending Act of 1910 changed the name of the Institution, but made no provision for its administration; it may therefore be assumed that the Act of 1898 still controls. See Act 92 of 1902, printed at p. 889 establishing the "Louisiana Hospital for the Insane of the State of Louisiana," in the Parish of Rapides.

## **BOARD OF ADMINISTRATORS INSANE ASYLUM.**

### **Act 146 of 1898, p. 259.**

#### **TITLE.**

**AN ACT** to provide for the Board of Administrators of the Insane Asylum of the State of Louisiana; to define its duties, to repeal Act 10 of the Acts of 1875, extra session, being an act to amend an act entitled an act to establish an Insane Asylum, and regulate the same, approved March 10, 1855, (Sec. 1761 Rev. Statutes), and also to amend an act in reference thereto, approved March 13th, 1874, and to repeal Act 47, of the Acts of 1890, being an act to provide for the appointment of the Board of Administrators of the Insane Asylum of the State of Louisiana.

#### **BOARD OF ADMINISTRATORS, APPOINTMENT, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Governor of the State shall, by and with the advice and consent of the Senate, appoint eight (8) persons, who shall constitute the Board of Administrators of the Insane Asylum of the State of Louisiana. The members of said Board shall be appointed from the State at large, and of the first Board to be appointed, two of them shall be designated for the term of one year, and shall be chosen from among the members of the Board now in office. Two shall be designated for the term of two years,

two shall be designated for the term of three years, and two for the term of four years, and their successors shall be appointed for terms of four years each.

#### **GOVERNOR IS PRESIDENT, EX-OFFICIO, ETC.**

Sec. 2. Be it further enacted, etc., That the Governor of the State shall, ex-officio, be President of the Board of Administrators; the Board shall elect from its members a vice-president to preside in the absence of the President, and an Executive Committee of four (4). The executive committee shall visit the institution at frequent intervals, not less than monthly, and shall report its condition and management to the president of the board, and the whole shall meet not less than four (4) times a year.

#### **WHEN ACT GOES INTO EFFECT.**

Sec. 3. Be it further enacted, etc., That this act shall take effect on the expiration of the terms of the Board of Administrators now in office.

#### **REPEAL OF ACT 10, 1875, ETC.**

Sec. 4. Be it further enacted, etc., That Act No. 10 of the Acts of 1875, extra session, being an act to amend an act entitled an act to establish an Insane Asylum and to regulate the same, approved March 10, 1855, (1782 Revised Statutes), and also to amend an act in reference thereto, approved March 12th, 1874, and also Act 147, of the Acts of 1890, being an act to provide for the appointment of the Board of Administrators of the Insane Asylum of the State of Louisiana, and also all other laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Note. Act 78 of 1912, p. 90. The Board of Administrators of the East Louisiana Hospital for the Insane may permit the use of the railroad switch to the public and charge therefor.

R. S., Secs. 1761-1762 were amended by Act 50 of 1874, which, however, did not mention the sections of the Revised Statutes, but did mention Act 327 of 1855, on which they were based. Act 50 of 1874 was repealed by Act 146 of 1898 printed *supra*.

#### **[Power of Board to Make Rules, Etc.]**

[R. S., Sec. 1763.] The Board shall have power to make all rules and regulations for their own government, not contrary to law; to make all necessary contracts; provided, however, that no member of said Board shall in any manner be connected with the taking of such contracts, and they shall further have the right to accept any donation or legacy in the name of the Asylum and for its use, to sue and be sued, plead and be impleaded, in all actions appertaining to the Asylum.

[R. S., Sec. 1764.] Amended by Act 50 of 1874, which was repealed by Act 146 of 1898.

#### **[Visiting Committee to Be Appointed, Etc.]**

[R. S., Sec. 1765.] At every regular meeting, the Board shall appoint two of its members, whose duty it shall be to visit said Asylum at least once a week, for the purpose of ascertaining the manner in which the regulations are complied with, and at each monthly meeting to report the condition of the Asylum. The Board shall furnish the Legislature, on the second Monday of each session, a detailed statement of the annual receipts and ex-

penditures of said Asylum: a statement of the names of the insane persons in the Asylum, of the number and names of those admitted; of those deceased, and of those cured and discharged during the current year.

[**Election of Treasurer, Bond, Salary, Etc.**]

[**R. S., Sec. 1766.**] The Board shall elect annually a Treasurer, who shall be *ex-officio* Secretary, and who shall not be a member of the Board, and who shall give bond and security for the faithful performance of his duty, to be approved by the majority of said Board. It shall be his duty to collect all debts due to said Asylum; to receive quarterly upon the warrant of the President, whatever appropriations may be made by the State for its benefit; to take care and keep an exact account of the property, credits and revenues, and to make all necessary payments under such rules and regulations and restrictions as may be established by the Board. Said Treasurer and Secretary, elected by the Board, shall receive an annual salary for his services the sum of six hundred dollars, paid quarterly on the warrant of the President, out of the funds annually appropriated by the State.

[**Vacancy in Board, How Filled.**]

[**R. S., Sec. 1767.**] The seat of any member who shall absent himself without sufficient cause from the regular meetings, shall be vacated by a majority of said Board, and the vacancy shall be immediately filled in the manner heretofore provided for. In the absence of the President, a majority of the members shall have power to call a meeting of the Board whenever the necessities of the Asylum may require it.

[**Admission of Insane, Duty of Judge and Other Officers.**]

[**R. S., Sec. 1768.**] Whenever it shall be made known to the Judge of the district, by the petition and oath of any individual, that any lunatic or insane person within his district ought to be sent to or confined in the Insane Asylum of this State, it shall be the duty of the said District Judge to issue a warrant to bring before him, in chambers, said lunatic or insane person, and after proper inquiry into all the facts and circumstances of the case, if in his opinion he ought to be sent to or confined in said Insane Asylum, he shall make out his warrant to the Sheriff of the parish, commanding him to convey the lunatic or insane person to the Insane Asylum, for which duty the Sheriff shall have the right to demand the same fees as are now allowed by law for the conveyance of convicts to the penitentiary of the State, which shall be paid out of the parish treasury, upon the order of the District Judge, and likewise all other expenses previously incurred in bringing said insane person before the District Judge.

**Note.** Where, after verdict and prior to sentence, doubts arise as to the sanity of the person convicted, the Court has the right, upon the suggestion of the District Attorney, to cause an investigation to be made, and he may do so in the criminal proceeding, which has not yet been closed. *State ex rel. Chandler, praying for Habeas Corpus*, 45 A. 696. The relator was convicted of murder, and the court on the report of a commission appointed to inquire into relator's sanity, refused to submit the question of sanity *vel non* to a jury. Held, that mandamus would not lie to constrain such

submission by the trial judge. State ex rel. Armstrong vs. Judge, 48 A. 502. See State ex rel. Paine vs. Potts, 49 A. 1502; State vs. Lyons 113 L. 1001; State vs. Same, 49 A. 1085.

**[Powers of Board to Receive Insane.]**

[R. S., Sec. 1769.] The Board of Administrators shall have authority to receive persons, not sent to the Asylum by a District Judge, on such terms and conditions as they may deem fit to adopt; and money so received shall be applied to the support of the institution.

**[Care and Maintenance Is Free, Exception.]**

[R. S., Sec. 1770.] (As amended by Act 248 of 1908, p. 369.) Except as provided in Section 1769, there shall be no charge for the care and maintenance of patients received in the insane asylums of the State of Louisiana.

**[Duties of Clerks of Court.]**

[R. S., Sec. 1771.] Whenever application is made to the Clerk for a certificate as above stated, it shall be his duty to examine, under oath, such witnesses as may be brought before him, and to give or refuse said certificate, as the case may in justice require; and the said Clerk is empowered, whenever he shall deem the same necessary to summon before him, as in ordinary cases, any witnesses necessary, and said certificate so given shall entitle the person therein named to admission into the Lunatic Asylum without charge.

**[Entering Premises of Asylum Without Permission.]**

[R. S., Sec. 1772.] If any person shall, without permission, enter any of the buildings or enclosures appropriated to the use of patients, or shall make any attempt to do so, or shall enter anywhere upon the premises belonging to said Asylum, and commit or attempt to commit any trespass or depredation thereon, or shall, either from within or without the enclosure, annoy or disturb the quiet of any patient confined therein, upon conviction thereof before the Mayor or any Justice of the Peace in the town of Jackson, be condemned to pay a fine of not less than five nor more than one hundred dollars for the use of said Asylum subject to appeal to the District Court as in other cases. And the District Court shall have concurrent jurisdiction over the offending party, and in pronouncing judgment, may impose a fine or imprisonment in the parish jail for a term not less than ten nor more than thirty days, or both, at the discretion of the court.

**ARREST OF OFFENDERS, ETC.**

Act 42 of 1918, p. 64.

**TITLE.**

AN ACT to authorize the Superintendents and other officers of Hospitals for the Insane to arrest offenders violating the laws designed to protect the property and inmates of such hospitals.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Superintendents, the acting or assistant Superintend-

ents and the supervisors, as peace officers, of the Hospitals for the insane, and such persons in the employment of such hospitals as the Superintendents may deputize, shall be authorized to make arrests for the violation of laws designed to protect the property and inmates of State Insane Hospitals, and take offenders before the proper authority for commitment, prosecution and punishment. Said above peace officers to give bond in the amounts and with the conditions prescribed by the Constitution and laws of the State for constables, in the amounts of not less than One Thousand Dollars.

[Assisting or Inducing Escape of Inmates.]

[R. S., Sec. 1773.] If any person shall abduct or seduce any patient to elope or escape from said Asylum, or shall attempt to do so, or shall aid or assist therein, every such person shall upon conviction thereof, be condemned to pay a fine of not less than fifty dollars nor more than five hundred dollars, for the use of said Asylum, and at the discretion of the court be imprisoned in the parish jail not less than one month nor more than six months, or both, at the discretion of the court.

[Letting Out Contracts.]

[R. S., Sec. 1774.] In all contracts for work, to be let out by the Board of Administrators, the said Board shall cause specifications to be made of the work to be done, and shall advertise the same for one month previous to the letting out of the contract, in a newspaper published in the parish of East Feliciana, and by notice posted up in the town of Jackson during the same time; and the parties wishing to bid for such contract shall be required to make their bids by sealed proposals, which shall be opened at a public meeting of the Board by the President, on a day previously fixed, and the contract shall be awarded to the lowest solvent bidder, who shall give bond and security for the faithful execution of the same according to the published specifications.

[Limitation on Contracts.]

[R. S., Sec. 1775.] Hereafter the Board of Administrators, or any officer of the Asylum, shall have no power to contract any debt, borrow money, issue drafts, or make any contract, or incur any liability connected with the administration of said Asylum beyond the amount appropriated by the Legislature and the revenue of the Institution for such purposes; and no such contract, debt, or liability thus incurred, by any of said officers, shall be binding on the State, nor shall the State in any manner be liable for the same.

[Examination of Inmates by Physician.]

[R. S., Sec. 1776.] The Physician of the Asylum shall professionally examine the lunatic or insane persons sent to the Asylum by the authority of the District Judge, and if in his opinion said person is only feigning insanity, being a person charged with a felonious crime, he shall report to the Board, who shall investigate the facts, and if, in the judgment of the majority, said

person should not be admitted as an inmate of the Asylum, the President of said Board shall cause such person feigning insanity, and who had been previously committed to prison for a crime, to be confined in the parish jail, and shall immediately inform the President of the Police Jury of the parish, or the proper authority in the parish of Orleans, where the rejected person has his domicile, of the fact, and the reason of his rejection, and the provisions of this section shall also apply to such persons charged with a crime who afterwards recover and become sane in said Asylum.

**[Feigning Insanity, Etc.]**

**[R. S., Sec. 1777.]** The Sheriff of East Feliciana, or his deputy, shall, within reasonable delay, convey said person feigning insanity to the parish of his domicile for which duty the Sheriff shall have the right to demand the same fees which are now allowed by law for the conveyance of convicts to the Penitentiary of the State, which shall be paid out of the Parish Treasury on the order of the President of the Police Jury of the parish of the domicile of the person rejected by the Board of Administrators, or the proper authority in the parish of Orleans.

**[R. S., Secs. 1778 to 1780.]** Authority of Courts when insanity is set up as a defense. Report of Grand Jury when insanity of accused prevents a true bill. Petit Jury in acquitting because of insanity of accused must so state. R. S., Secs. 993 to 995, title "Criminal Proceedings."

**LOUISIANA HOSPITAL FOR THE INSANE OF THE STATE.**

**Act 92 of 1902, p. 144.**

**TITLE.** (As amended by Act 143, 1904, p. 314).

**AN ACT** to establish an Insane Asylum, providing for its management and regulation; imposing fines and penalties for the violation of its provisions, and making appropriation for the construction of necessary buildings.

**ESTABLISHING THE LOUISIANA HOSPITAL FOR INSANE OF THE STATE OF LOUISIANA.**

**Section 1.** (As amended by Act 143, 1904, p. 314). Be it enacted by the General Assembly of the State of Louisiana, That there shall be established in the parish of Rapides an Asylum for the Insane, to be called the Louisiana Hospital for Insane of the State of Louisiana.

**BOARD OF ADMINISTRATORS; GOVERNOR EX-OFFICIO PRESIDENT.**

**Sec. 2.** (As amended by Act 143, 1904, p. 314). Be it further enacted, etc., That it shall be the duty of the Governor of this State to appoint a Board of Administrators composed of eight members to be appointed from the State at large, of which body the Governor of Louisiana shall be ex-officio President and this Board is to be known as the Board of Administrators of the Louisiana Hospital for the Insane of the State of Louisiana, to be situated in the parish of Rapides, and said Board shall be and are hereby constituted the Board of Administrators of aforesaid Hospital. The terms of service of the members of the Board of Administrators of this institution shall be two members for one year, two members for two years, two members for three years, and two for four years, and their successors for

terms of four years each to date from the expiration of the preceding terms; and vacancies to be filled by the Governor by appointment for the unexpired term.

**POWER OF BOARD TO MAKE RULES.**

Sec. 3. Be it further enacted, etc., That the Board shall have power to make all rules and regulations for their own government not contrary to law; to make all necessary contracts; provided, however, that no members of said Board shall in any manner be connected with the taking of such contracts, and they shall further have the right to accept any donation or legacy in the name of the Asylum, and for its use, to sue and be sued, plead and be impleaded, in all action appertaining to the Asylum.

**ELECTION OF SUPERINTENDENT; QUALIFICATION; TERM, ETC.**

Sec. 4. Be it further enacted, etc., That the Board shall elect a Superintendent, who shall be the chief physician and the executive officer of the institution, and shall with his family reside on the premises, and is forbidden to practice his profession beyond its limits. The Superintendent shall be elected for a period of four years, and can be removed only by the Board of Administrators for cause. The Superintendent shall suggest to the Board the names of suitable persons to act as assistant physician or physicians, when more than one is required; also steward and matron, who shall be removed by the Board on recommendation of the Superintendent. The salaries of the above mentioned officers shall be determined by the Board.

**VICE-PRESIDENT; EXECUTIVE COMMITTEE.**

Sec. 5. Be it further enacted, etc., That the Board shall elect from its members, a Vice-President, to preside in the absence of the President, and an Executive Committee of four. The Executive Committee shall visit the institution at frequent intervals, not less than monthly, and shall report its condition and management to the President of the Board, and the whole Board shall meet not less than four times a year.

**REPORT TO LEGISLATURE.**

Sec. 6. Be it further enacted, etc., That the Board shall furnish the Legislature on the second Monday of each session, a detailed statement of the annual receipts and expenditures of said Asylum; a statement of the number and sex of the insane persons in the Asylum; of the number and sexes of those admitted, and of those deceased during the preceding biennial period.

**TREASURER; TERM; BOND, ETC.**

Sec. 7. Be it further enacted, etc., That the Board shall elect a Treasurer for a period of four years, who shall be ex-officio Secretary, and who shall not be a member of the Board, and who shall give bond and security for the faithful performance of his duty, to be approved by the majority of said Board. It shall be his duty to collect all debts due to said Asylum; to receive quarterly upon the warrant of the President, whatever appropriations may be made by the State for its benefit; to take care of and keep an exact account of the property, credit and revenues and to make all necessary payments under such rules and regulations as may be established by the Board. He shall receive such salary as may be fixed by the Board.

**MANNER OF COMMITTING PERSONS TO SAID ASYLUM.**

Sec. 8. (As amended by Act 143, 1904, p. 314). Be it further enacted, etc., That whenever it shall be made known to the Judge of the District Court by the petition and oath of an individual that any lunatic or insane person within his district ought to be sent to or confined in the Insane Asylum of the State, it shall be the duty of the said District Judge to issue a warrant to bring before him in chambers, said lunatic or insane person, and after proper inquiry into all of the facts and circumstances of the case, if in his opinion, he ought to be sent to or confined in said Insane Asylum, he shall make out his warrant to the Sheriff of the parish, commanding him to

convey the lunatic or insane person to the said Insane Asylum, for which duty the Sheriff shall have right to demand the same fees as are now allowed by law for the conveyance of convicts to the penitentiary of the State, which shall be paid out of the parish treasury, upon the order of the District Judge, and likewise all other expenses previously incurred in bringing said insane person before the District Judge.

**CHARGES TO BE PAID UNLESS PERSON IS INDIGENT.**

Sec. 9. (As amended by Act 143, 1904, p. 314). Be it further enacted, etc., That all persons received in said Asylum as insane, shall be charged at a rate of not less than ten dollars (\$10.00) per month, unless the Police Jury of parish whence the insane came, a municipal council, if from a city or town, or the clerk of the court, shall certify that said person is in indigent circumstances; and whenever application is made to the clerk for a certificate as above stated, it shall be his duty to examine under oath, such witnesses as may be brought before him, and to give or refuse said certificate, as the case may in justice require; and the said clerk is empowered, whenever he shall deem the same necessary, and said certificate so given shall entitle the person therein named to admission into said Asylum without charge.

**ENTERING WITHOUT PERMISSION.**

Sec. 10. Be it further enacted, etc., That if any person shall, without permission, enter any of the buildings or enclosure appropriated to the use of the patients, or shall make any attempt to do so, or shall enter anywhere upon the premises belonging to said Asylum and commit or attempt to commit any trespass or depredation thereon, or if he shall either from within or without the enclosure, annoy or disturb the quiet of any patient confined therein, upon conviction thereof before any justice of the peace of the parish of Rapides, he shall be condemned to pay a fine of not less than five dollars (\$5.00) nor more than one hundred dollars, (\$100.00) for the use of said Asylum subject to appeal to the District Court as in other cases. And the District Court shall have concurrent jurisdiction over the offending party, and in pronouncing judgment, may impose a fine and imprisonment in the parish jail for a term not less than ten (10) nor more than thirty (30) days, or both, at the discretion of the court.

**ABDUCTION, ETC., OF INMATES.**

Sec. 11. Be it further enacted, etc., That if any person shall abduct or seduce any patient to elope or escape from said Asylum, or shall attempt to do so, or shall aid or assist therein, every such person shall, upon conviction thereof, be condemned to pay a fine of not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00), for the use of said Asylum, and at the discretion of the court be imprisoned in the parish jail not less than one (1) month, nor more than six (6) months, or both, at the discretion of the court.

**CONTRACTS, HOW LET; ADVERTISEMENTS, ETC.**

Sec. 12. Be it further enacted, etc., That in all contracts for work to be let out by the Board of Administrators, the said Board shall cause specifications of the work to be done, and shall advertise for sealed proposals for such work for one (1) month previous to the letting out of the contract, in a newspaper published in the parish of Rapides, and by notice posted up in the town of Alexandria, and by such other publication as the Board may direct during the same time, and the parties wishing to bid for such contract shall be required to make their bids by sealed proposals which shall be opened at a public meeting of the Board by the President, on a day previously fixed, and the contract shall be awarded to the lowest solvent bidder, who shall give bond and security for the faithful execution of the same according to the published specifications.

**BOARD WITHOUT POWER TO CONTRACT DEBTS.**

Sec. 13. Be it further enacted, etc., That the Board of Administrators shall have no power to contract any debts, borrow money, issue drafts, or

make any contract, or incur any liability, connected with the administration of said Asylum, beyond the amount appropriated by the Legislature and the revenue of the institution for such purposes; and no such contract, debt, or liability thus incurred, by any of said officers, shall be binding on the State, nor shall the State in any manner be liable for same.

**EXAMINATION OF INSANE SEEKING ADMITTANCE.**

Sec. 14. Be it further enacted, etc., That the physician of the Asylum shall professionally examine the lunatic or insane person sent to the Asylum by the authority of the District Judge, and if, in his opinion, said person is only feigning insanity, being a person charged with felonious crime, he shall report to the Board, who shall investigate the facts, and if, in the judgment of the majority, said person should not be admitted as an inmate of the Asylum, the President of the Board shall cause such person feigning insanity and who has been previously committed to prison for a crime, to be confined in the parish jail, and shall immediately inform the President of the police jury of the parish, or the proper authority in the parish of Orleans, where the rejected person has his domicile, of the fact, and the reason for his or her rejection, and the provisions of this section shall also apply to such persons charged with a crime who afterwards recover and become sane in said Asylum. The sheriff of the parish of Rapides, or his deputy, shall, within reasonable delay, convey said person feigning insanity to the parish of his or her domicile, for which duty the sheriff shall have the right to demand the same fees which are now allowed by law, for the conveyance of convicts to the penitentiary of the State, which shall be paid out of the parish treasury on the order of the president of the police jury of the parish of the domicile of the person rejected by the Board of Administrators or the proper authority in the parish of Orleans.

**JUDGES AUTHORIZED TO COMMIT PERSONS ACQUITTED OF CRIME, WHO ARE DANGEROUSLY INSANE.**

Sec. 15. (As amended by Act 143, 1904, p. 314). Be it further enacted, etc., That whenever any person, arrested to answer for any crime or misdemeanor, before any court of this State, shall be acquitted thereof by the jury, or shall not be indicted by the Grand Jury, by reason of the insanity or mental derangement of such person, and the discharge and going at large of such person shall be deemed, by the court to be dangerous to the safety of the citizens or the peace of the State, the court is authorized and empowered to commit such person to the said Asylum, there to be retained until he be restored to his or her right mind, or otherwise delivered by due course of law.

**HOW CONVICTS WHO ARE INSANE MAY BE REMOVED TO ASYLUm.**

Sec. 16. (As amended by Act 143, 1904, p. 314). Be it further enacted, etc., That whenever any convict serving a sentence in the penitentiary of this State shall become insane, it shall be the duty of the Board of Control of the State Penitentiary, to present a petition to the court where said penitentiary is located, setting forth the insanity of such convict, and praying for his or her interdiction and removal from the penitentiary to the Asylum or Hospital for the Insane, whereupon it shall be the duty of the judge to whom such a petition is presented to order the said convict whose interdiction is prayed for brought before him, and to hear and determine the question of the person's insanity in the same manner, and by such proofs as are now required by law for the interdiction of other insane persons, and if after hearing the evidence, the judge shall be satisfied that the said convict has become insane during his or her imprisonment, he shall order the removal of said convict from the penitentiary to said Asylum or Hospital for the Insane. Upon the recovery of his or her sanity, the person so interdicted shall be returned to the penitentiary, there to serve out the unexpired portion of his or her sentence; provided, that the expired portion of said interdict's sentence shall be reckoned from the time when the sentence first began in the penitentiary.

Sec. 17. Be it further enacted, etc., That nothing in this Act shall change the organization of, nor impair the obligation of any contract entered into by and with the Board of Administrators of the Colored Insane Asylum of the State of Louisiana, as provided for by Act No. 92, of 1902.

**APPROPRIATION FOR CONSTRUCTION OF BUILDINGS.**

Sec. 18. Be it further enacted, etc., That for the construction of all the necessary buildings for said Insane Asylum, the sum of one hundred thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of the general fund revenues of 1901.

**APPORTIONMENT OF INSANE TO VARIOUS ASYLUMS.****Act 154 of 1906, p. 260.****TITLE.****AN ACT to apportion the insane to the State Insane Asylums.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That for the purpose of providing for the disposition and distribution of insane persons entitled to admission in the State institutions for the insane, the State of Louisiana is divided into two districts, as follows:

First District—Ascension, Assumption, Concordia, East Baton Rouge, East Carroll, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Madison, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Tammany, Tangipahoa, Tensas, Terrebonne, Washington, West Baton Rouge and West Feliciana.

The Second District composed of the parishes of Avoyelles, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, De Soto, Grant, Franklin, Iberia, Jackson, Lafayette, Lincoln, Morehouse, Ouachita, Rapides, Red River, Richland, Sabine, Union, Vernon, Webster, Winn, Acadia, St. Landry, Vermilion, West Carroll, St. Martin and St. Mary.

**DISTRIBUTION BETWEEN TWO ASYLUMS.**

Sec. 2. Be it further enacted, etc., That hereafter all insane persons from the First District shall be sent to and received by "The Insane Asylum of Louisiana," situated at Jackson, and all insane persons from the Second District shall be sent to and received by the Louisiana Hospital for Insane of the State of Louisiana, situated at Pineville.

**WHEN ONE INSTITUTION IS CROWDED IT MAY BE RELIEVED BY THE OTHER.**

Sec. 3. Be it further enacted, etc., When owing to the crowded condition of either institution it is unable to receive an insane person for whose admission application has been legally made, said person may be received in the other institution on application to the superintendent of same by the sheriff in charge of the insane person, said application to be accompanied by a statement from the superintendent of the institution to which under this Act, the said insane person should be sent that it is not able to provide for such insane person. And no person shall be received in either institution from outside its district, on account of the crowded condition of the other, except on application, as above provided.

**TRANSFER TO BE MADE BY BOARD OF ADMINISTRATORS.**

Sec. 4. Be it further enacted, etc., That the Board of Administrators, through their executive committees, may, in their discretion consent to and provide for the transfer from time to time, and as convenient, of such patients already inmates of one or the other institution for the insane, or who shall hereafter be admitted when their residence is in another district.

## PROCEEDINGS FOR INTERDICTION OF INSANE AND ADMISSION TO ASYLUM.

**Act 68 of 1918, p. 100.**

### **TITLE.**

AN ACT to provide proper proceedings relative to the insane and for the admission of insane persons, whether indigent or otherwise, to the Insane Hospitals of the State; and to authorize the respective Boards of Administrators to determine the question of indigency, and in all proper cases to require reasonable compensation for care and treatment; and to authorize suit for recovery; and to authorize the parole of patients; and to punish ill treatment of inmates or patients.

### **PROCEEDINGS IN COURT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever it shall be made known to the Judge of the District Court by written complaint or information of any respectable citizen that any insane person within his jurisdiction is indigent and ought to be sent to or confined in one of the State Hospitals for the Insane or complaint that though not indigent he should be confined, it shall be the duty of the said Judge of the District Court having jurisdiction of interdiction to issue his warrant ordering such person to be brought in Court before him, and thereupon said Judge shall cause to be summoned two licensed and reputable physicians, one of whom shall be the coroner of the parish, and the other the physician of the suspected person, if he has any, and neither shall be related by affinity or consanguinity to him or have any interest in his estate. The Judge and the two physicians shall constitute a commission to inquire whether such person be insane and a suitable subject for a hospital for the care and treatment of insane persons, and for that purpose the judge shall also cause to be summoned witnesses who know the person suspected of insanity. The physicians shall, in the presence of the judge, by personal examination of such suspected person and by inquiring satisfy themselves and the judge as to the mental condition of the person being examined. If the two physicians do not agree, the judge shall determine the issue. The provisions of this act shall not interfere with the present method of commitments of insane by the Recorders of the City Courts of New Orleans upon affidavits; provided, however, that the Coroner's certificate required under Section 2 of this act be likewise furnished for the insane committed by the Recorders of the City Courts of New Orleans.

### **FORM OF CORONER'S CERTIFICATE.**

Sec. 2. Be it further enacted, etc. That the coroner shall ascertain all of the necessary facts to enable him to answer properly the questions embodied in the following form of certificate, to-wit:  
State of Louisiana, Parish of.....

The coroner certifies as follows in answer to the following interrogations:

Name of patient .....	Nativity .....				
Race .....	Sex .....	Civil conditions .....	Married, single, widowed, divorced .....	Age .....	Present occupation of patient.....
Former occupation.....					
How long since patient worked regularly or attended to business.....					
How well does the patient attend to ordinary work.....					
Where born.....	Name and address of nearest friend or relative.....				
Relation of same to patient.....					
Nearest telegraph and railroad station or steamboat landing to said friend or relative.....					
In the event of death would family wish to claim the body at their expense.....					
Is the patient a criminal insane.....					
Give crime committed.....	Present weight of patient.....				
When did the present attack of insanity begin.....					
Present residence.....	How long lived in the present place of residence				

Place of residence for past two years..... If of foreign birth, how long a resident of the United States..... Can patient speak English.....  
Port of landing..... Date of landing..... Name of ship .....

Birthplace of father..... Birthplace of mother..... Maiden name of mother..... Education—liberal, good, professional.....  
Read..... Write..... Can patient count ten..... Religion.....  
Number of children had, if a female..... Age of youngest child, if patient is a female ..... Name and address of guardian .....

Value of property of self or husband.....  
of parents, if the patient is a minor ..... Is the patient addicted to the intemperate use of intoxicating liquors, tobacco, morphine, cocaine or other injurious drugs..... If so, to what extent..... Is the patient addicted to any injurious, improper or immoral habits..... If so, to what extent..... State fully and in detail any physical symptoms, injury or disease from which the patient is at present suffering.....  
Is the patient affected by paralysis..... Dropsy..... Blindness.....  
Deafness..... Dumbness..... Incontinence of urine or feces.....  
Hysteria..... Emaciation..... Insomnia..... Cancer..... Tuberculosis ..... Pellagra ..... Hernia..... Epilepsy ..... Uteric or pelvic disorders..... Is the patient pregnant..... Is the patient now sick in bed..... Is the patient now suffering from acute or chronic alcoholism or delirium tremens..... What were the first symptoms..... Were the symptoms gradual or rapid in onset..... State fully the present symptoms of insanity, particularly whether the patient is violent..... Destructive..... Untidy..... Excited..... Depressed..... Homicidal..... Suicidal..... If homicide or suicide has been attempted or threatened, state when and in what manner..... Does the patient talk to himself..... Assume peculiar attitudes.....  
Hear voices..... Believe he is being persecuted..... State in what manner..... State any changes that have occurred in the condition of the mind or body of the patient since the onset of the present attack of insanity..... Has any restraint or confinement been imposed on the patient, the nature and duration..... Is the patient now in jail..... If not, state in whose custody said patient is, giving name, post-office and telegraph address, distance from telegraph office and railroad station.....  
If there have been any attacks of insanity previous to the present one, when did they occur..... Give the duration, symptoms and character of each..... State the length of intervals between the attacks..... Was the patient entirely sane and rational between the attacks..... If the patient has ever been an inmate of any hospital or other place of detention and treatment for the insane, state when, where and whether he was discharged or recovered or otherwise..... If any of the patient's family or near relatives are or have been insane, mentally defective, epileptic, neurotic, alcoholic, tuberculosis, et cetera, state the facts..... The degree of consanguinity..... Whether paternal or maternal..... What in the opinion of the examining physician, are the causes of the patient's insanity..... The predisposing causes..... Name and address of physician who last attended patient..... What treatment has been given ..... With what effect..... Is the patient normally below or above the average standard of intelligence..... Is the patient a congenital idiot or imbecile..... Describe the appearance, manner and all insane acts and speech of the patient during examination..... State fully anything else bearing on the case as indicating insanity.....

Coroner of..... Parish.

If the judge determines that said person is insane, he shall make the following order or warrant:

State of Louisiana, Parish or city of....., to-wit: To the Sheriff of the Parish of..... and to the Superintendent of the State Hospital, Greeting:

Whereas, I ..... judge of said parish of ..... and two physicians, constituting a commission of inquiry, et cetera, into the sanity of said ..... have this day adjudged the said ..... to be insane and

a suitable subject for a hospital for the care and treatment of insane persons, and a citizen of this State; I do, in the name of the said State, command you, the said sheriff, to deliver the said ..... together with this warrant, to the superintendent of the ..... State Hospital, at ....., that having a vacancy and being the nearest appropriate hospital, or to the duly authorized agent of said hospital, to be delivered by him to the said superintendent. And you, the said superintendent, with a vacancy, are hereby required to receive into the said hospital, and into your care and charge, the said ..... to be treated and cared for as an insane person.

And I do herewith transmit to you, the said superintendent, the interrogatories and answers thereto, taken by said coroner touching the sanity of the said ....., a copy of which has this day been delivered by me to the clerk of court of said parish or city.

Given under my hand this ..... day of ..... nineteen hundred and .....

Judge.

Each parish or corporation shall be provided upon application, by the Superintendents of the insane hospitals, with all necessary blank forms. The record of proceedings under this section, together with the warrant of commitment, shall be made in duplicate, one copy of which shall be delivered by the judge to the sheriff of the parish, and the other copy filed with the office of the clerk of court.

If the judge shall commit the suspected person to the insane hospital, he shall make out his order or warrant, as aforesaid, directed to the sheriff of the parish, commanding him to convey the insane person to the insane hospital, for which duty the sheriff shall have the right to demand the same fees as are now allowed by law for the conveyance of convicts to the penitentiary of the State, which shall be paid out of the parish treasury upon the order of the district judges, and likewise all other expenses previously incurred in bringing said insane person before the district judge. Which charges and expenses shall be placed by the sheriff to the credit of the Sheriff's Salary Fund, as provided by Act No. 143 of 1916.

#### **RECEPTION OF PATIENTS IN HOSPITALS FOR INSANE.**

Sec. 3. Be it further enacted, etc., That persons adjudged insane in accordance with the foregoing proceedings shall be received in the State hospitals for the insane, and there receive proper care and treatment. In any case, however, where it shall be made to appear to the Board of Administrators, or to the Superintendent that the patient is not in fact indigent, but will be able to bear the expense of care and treatment, then an agent of the hospital shall be authorized to make an investigation to determine the question of indigency. He shall have power to subpoena witnesses, take testimony under oath and to examine any public records relating to the estate of an inmate or of a relative liable for his or her support. All such information, conclusions and recommendations shall be submitted to the Board of Administrators. The Board, or a committee thereof, appointed for that purpose, shall determine whether such relative shall be required to pay for the support of such inmates or whether such charges shall be made against the estate of an inmate. An order shall be issued to the persons who are determined to be liable for such payments, requiring them to pay monthly, quarterly or otherwise, as may be arranged, to the Board such amount as it or the Committee shall deem reasonable and proper. The Board shall make all reasonable and proper efforts to collect such amount, and in case of inability to collect for a period of three months, the Board shall be authorized to direct the District Attorney of the district wherein the debtors reside, to institute civil action in the name of the State to recover the amount due, with interest. All moneys received, as herein provided, or by such suit instituted, shall be paid to the treasurer of each of such institutions. The District Attorney shall be allowed as compensation a penalty of ten per cent of the amount recovered, which shall be assessed as a penalty against the debtor, and recovered by way of costs. The

clerk of court shall certify in all cases that the insane person is "indigent" or "not indigent," according to his information.

**LIABILITY OF HUSBAND, ETC.**

Sec. 4. Be it further enacted, etc., That a husband may be held liable for the support of his wife while an inmate of any of said institutions, and a wife for a husband, a father or mother for a son or daughter, and a son or daughter or both for a father or mother, in any case where the Board of Administrators have determined, as hereinabove provided for, that the inmate is not an indigent; provided that in any case where suit is authorized, upon the determination of the Board of Administrators, the Court of jurisdiction of the alleged debtor shall have the right to review the question of indigency, as determined by the Board of Administrators, and provided that such alleged debtors shall be permitted to present the defense that the finding of the Board is either unreasonable or erroneous.

**PAROLES FOR PATIENTS.**

Sec. 5. Be it further enacted, etc., That the Board of Administrators may authorize the superintendent to grant paroles to patients, upon such terms and conditions as may, in his judgment, in each particular case, be for the advantage of such patients, provided that he shall have the authority, also, to recall such patients at any time.

**MALTREATMENT OF PATIENTS.**

Sec. 6. Be it further enacted, etc., That whoever shall assault, assault and batter, or strike or maltreat a patient or inmate of any insane hospital of the State shall, upon conviction, be fined not exceeding Five Hundred Dollars (\$500.00) and imprisoned not exceeding six months, at the discretion of the Court.

Sec. 7. Be it further enacted, etc., That all laws or parts of laws on the same subject matter, in conflict herewith, be and the same are hereby repealed, and especially is Act 253 of 1910 repealed.

Note. By Sec. 7, Act 253 of 1910 is specifically repealed, but this does not appear in the title. However the Act of 1910 would be superseded by the Act of 1918, since the latter contains all the matter of the former act, and some other matter.

**SUMMARY TRIAL OF INTERDICTION SUITS.****Act 226 of 1914, p. 424****TITLE.**

**AN ACT to provide for summary trials in Interdiction Suits.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Interdiction suits shall be tried by the District Courts and the Supreme Court, of Louisiana, summarily and with preference over all other cases, except criminal cases.

Sec. 2. Be it further enacted, etc., That all laws on the same subject matter or in conflict herewith, are hereby repealed.

**INTERDICTION OF PERSONS BECOMING INSANE WHILE IMPRISONED.****Act 105 of 1896, p. 153.****TITLE.**

**AN ACT to provide for the interdiction of persons becoming insane while imprisoned in the Penitentiary, and for their removal to the Asylum for the Insane.**

**PETITION TO COURT TO INTERDICT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana. That whenever any convict serving a sentence in the Penitentiary of this State shall become insane, it shall be the duty of the War-

den of said Penitentiary together with the Clerk of the Board of Control to present a petition to the District Court where said Penitentiary is located, setting forth the insanity of such convict, and praying for his interdiction and removal from the Penitentiary to the Asylum for the Insane.

#### **DUTY OF JUDGE.**

Sec. 2. Be it further enacted, etc., That it shall be the duty of the Judge to whom such a petition is presented to order the convict whose insanity is prayed for brought before him, and to hear and determine the question of such person's insanity, in the same manner, and by such proofs as are now required by law for the interdiction of other insane persons, and if after hearing the evidence, the Judge shall be satisfied that the convict has become insane during his imprisonment he shall order the removal of said convict from the Penitentiary to the Asylum for the Insane.

#### **RECOVERY OF SANITY.**

Sec. 3. Be it further enacted, etc., That whenever any person interdicted under this act, shall recover his sanity, he shall be returned to the penitentiary, there to serve out the unexpired portion of his sentence; provided, that the expired portion of said interdict's sentence shall be reckoned from the time when the sentence first began in the penitentiary.

**Note.** The appellate jurisdiction of the Supreme Court in criminal cases does not extend to an appeal from the refusal of the trial judge—after the conviction of murder, and its affirmance on appeal—of a commission to inquire into defendant's then mental condition mandamus will not lie to compel it. State ex rel. Lyon vs. Chretien, 114 L. 81. Where a convict becomes insane while confined in the penitentiary, the court where the penitentiary is located, is the proper court in which proceedings contemplated by the act must be filed. The court where the person was convicted ceased to have jurisdiction when the convict passed out of its control into that of the officers of the penitentiary. State vs. Oterl, 129 L. 921.

### **CRIMINAL INSANE.**

#### **Act 264 of 1910, p. 454.**

##### **TITLE.**

**AN ACT relative to the criminal insane; to provide for separate wards for the criminal insane in the State Hospital for the Insane at Jackson, Louisiana, and to provide the conditions upon which the criminal insane may be restored to liberty, returned to the several parishes for trial, or delivered to the proper sheriff or official for the carrying out of the sentence of the court, upon regaining their sanity, and to repeal all laws or parts of laws in conflict herewith.**

##### **WARD FOR—AT JACKSON.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Hospital for the Insane established by the State of Louisiana at Jackson, Louisiana, shall provide and set apart separate ward or wards, to be known as "The Ward for the Criminal Insane"; said ward or wards shall be used for the sole purpose of keeping in custody, treating and caring for such persons as may be committed to such Hospital for the Insane, who are charged or convicted of the commission of any crime, and who were so committed to said Hospital for the Insane because of insanity, either before or after trial, the purpose of this provision to keep separate and apart the criminal insane from those who are insane but who have committed no crime.

##### **DETERMINATION OF WHO ARE.**

Sec. 2. Be it further enacted, etc., That if any person charged by affidavit, information or indictment, with the commission of any crime, is found to be insane in the court in which he is so charged, before trial or after trial and conviction, the court shall order him to be committed to the ward for the Criminal Insane in the Insane Hospital of the State of Louisiana, where he shall be kept in custody, treated and cared for until he has been completely restored to sanity. If any such person committed to the ward for the Criminal Insane is in the opinion of the Superintendent not insane, or when such person, if insane, has been completely restored to sanity, he shall,

upon the certificate of the commission provided for by this act to such effect, be sent back to the jail or custody from which he was removed, where he shall be held for trial, or that sentence may be executed upon him, as the case may be, in accordance with law. The Superintendent of the said Hospital for the Insane shall, from time to time, or as often as the court may require, furnish information of the status of said criminal insane during his confinement in said Hospital for the Insane.

**RECOVERY OF SANITY.**

Sec. 3. Be it further enacted, etc., That when any person confined in the ward for the Criminal Insane shall have recovered his sanity, and if such person was not acquitted of the crime with which he was charged upon the ground that he was insane at the time of its commission, the Superintendent of the Hospital for the Insane shall notify in writing the Clerk of the District Court of the parish wherein said crime was committed, and in due course, upon the order of the judge of the aforesaid court the sheriff of the parish wherein said crime was committed shall be given the custody of the said person and shall return him to the said parish for trial in accordance with law.

**TREATMENT OF CONVICTS BECOMING INSANE.**

Sec. 4. (As amended by Act 261, 1918). Be it further enacted, etc., That where a person has been committed to a State Hospital for the Insane, who became insane after his conviction for a crime punishable by imprisonment in the penitentiary or by death, he shall not be restored to liberty, but, upon regaining his sanity, he shall be delivered by the Superintendent of said Hospital for the Insane into the custody of the sheriff of the parish wherein he was convicted in order that the judgment and sentence of the court may be executed in due course of law. When any person charged with a felony necessarily punishable in the State Penitentiary, or by death, has been adjudged insane, before or after trial or conviction, and shall be committed to a State Hospital for the insane, such person shall not be discharged from said Hospital for the Insane or delivered unto the custody of the proper sheriff until the Superintendent of the East Louisiana Hospital for the Insane of the State of Louisiana, the Superintendent of the Louisiana Hospital for the Insane, and in case of their disagreement, a physician appointed by the Judge of the District Court from whence said criminal insane person was committed, which said gentlemen are hereby constituted a commission, shall be satisfied after a thorough examination, that such person has been completely restored to sanity and may be discharged without danger to others; and if said commission shall determine that such person has been completely restored to sanity, they shall certify to this fact in writing, which certificate shall be made in duplicate, one to be filed in the office of the Hospital for the Insane, and the other delivered to the proper sheriff, or other official charged with the duty of executing the process of that particular court having jurisdiction in the case. Provided that the finding of said commission be subjected to review by the court having jurisdiction of the person. .

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws on the same subject contrary to the provision of this act be and the same are hereby repealed.

Note. See note on p. 898.

**PROTECTION OF INSANE; RIGHT TO CORRESPOND, ETC.**

Act 152 of 1888, p. 213.

**TITLE.**

AN ACT to place the inmates of the insane asylums under the protection of the laws by securing to them their postal rights.

**RIGHT OF INMATES TO CHOOSE CORRESPONDENT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That henceforth each and every inmate of each and every in-

sane asylum, both public and private, in the State of Louisiana, shall be allowed to choose one individual from the outside world to whom he or she may write when and whatever he or she desires and over these letters to this individual, there shall be no censorship exercised or allowed by any of the asylum officials or employees; but their postoffice, so far as this one individual is concerned, shall be as free and unrestricted as are those of any other resident or citizen of the State of Louisiana, and shall be under the protection of the same postal laws; and each and every inmate shall have the right to make a new choice of this individual party every three months, if he or she so desires to do; and it is here made the duty of the superintendent to furnish each and every inmate of every insane asylum in this State, either public or private, with suitable material for writing, inclosing, sealing, stamping and mailing letters, sufficient at least for the writing of one letter a week, provided they request the same, unless they are otherwise furnished with such material; and all such letters shall be dropped by the writer thereof, accompanied by an attendant when necessary, into a postoffice box provided by the State at the insane asyplum, and kept in some place easy of access to all the patients; the attendant is required in all cases to see that this letter is directed to the patient's correspondent, and if it is not so directed, it must be held subject to the Superintendent's disposal; and the contents of these boxes shall be collected once every week by an authorized person from the postoffice department, and by him placed in the hands of the United States mail for delivery.

**RECORD OF INMATES CORRESPONDENTS.**

Sec. 2. Be it further enacted, etc., That it is hereby made the duty of the Superintendent to keep registered and posted in some public place at the Insane Asylum, a true copy of the names of every individual chosen as the inmate's correspondent, and by whom chosen, and it is hereby made the duty of the Superintendent to inform each of the individuals of the name of the party choosing him or her, and he is to request him or her to write his or her own name on the outside of the envelope of every letter he or she writes to this individual inmate; and all such letters bearing the writer's name on the outside shall be delivered without opening or reading the same, or allowing same to be opened or read, unless there is reason for believing the letter contains some foreign substance which might be used for medication, in which case the letter shall be required to be opened in the presence of a competent witness, and this substance shall be delivered to the Superintendent to be used at his discretion.

**VIOLATION OF ACT, MISDEMEANOR.**

Sec. 3. Be it further enacted, etc., That any person neglecting or refusing to comply with, or willingly or knowingly violating any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine or imprisonment, at the discretion of the court, and shall be ineligible to any office in the asylum afterwards.

**POSTING OF ACT.**

Sec. 4. Be it further enacted, etc., That a printed copy of this Act shall be framed and kept posted in every ward of every insane asylum, both public and private, in the State of Louisiana; that all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed, and that this Act shall be in force thirty days after its passage.

**IMPORTATION OF INSANE PERSONS PROHIBITED.**

**Act 173 of 1898, p. 422.**

**TITLE.**

**AN ACT to prevent the importation of insane persons into the State, providing for the punishment of parties violating this Act, and for the removal of such insane persons.**

**Be it enacted by the General Assembly of the State of Louisiana, That it is hereby declared unlawful for the managers of any public carrier or for**

any individual to bring into the State of Louisiana from any other State or country, any insane person who may become a charge upon the State, and any person violating this Act shall be punished upon conviction before any court of competent jurisdiction by a fine of one hundred dollars, (\$100.00), or imprisonment for sixty (60) days, or both, at the discretion of the court, and any insane person so brought in shall be removed out of the State by and at the expense of the public carrier or individual so offending.

## EXTRADITION OF PERSONS OF UNSOUND MIND.

Act 221 of 1918, p. 402.

### TITLE.

AN ACT for the extradition of persons of unsound mind and render uniform laws of the various States adopting same.

### UNIFORM ACT FOR EXTRADITION, ETC.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, This act may be cited as the Uniform Act for the Extradition of Persons of Unsound Mind.

### DEFINITION OF TERMS.

Sec. 2. Be it further enacted, etc., The terms "Flight" and "fled" as used in this act, shall be construed to mean any voluntary or involuntary departure from the jurisdiction of the Court where the proceedings herein-after mentioned may have been instituted and are still pending, with the effect of avoiding, impeding or delaying the action of the Court in which such proceedings may have been instituted or be pending, or any such departure from the State where the person demanded then was, if he then was under detention by law as a person of unsound mind and subject to detention. The word "State" wherever used in this act shall include States, Territories, districts and insular and other possessions of the United States. As applied to a request to return any person within the purview of this act to or from the District of Columbia, the words "executive authority," "Governor" and "Chief Magistrate" respectively shall include a justice of the Supreme Court of the District of Columbia and other authority.

### DELIVERY OF FUGITIVES.

Sec. 3. Be it further enacted, etc., A person alleged to be of unsound mind found in this State, who has fled from another State, in which at the time of his flight:

(a) He was under detention by law in a hospital, asylum, or other institution for the insane as a person of unsound mind; or

(b) He had been theretofore determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of his person having been acquired by a Court of competent jurisdiction of the State from which he fled; or

(c) He was subject to detention in such State, being then his legal domicile (personal service of process having been made), based on legal proceedings there pending to have him declared of unsound mind shall on demand of the executive authority of the State from which he fled, be delivered up to be removed thereto.

### PROCEDURE FOR EXTRADITION.

Sec. 4. Be it further enacted, etc., Whenever the executive authority of any State demands of the executive authority of this State, any fugitive within the purview of Section 3 and produces a copy of the commitment, decree or other judicial process and proceedings, certified as authentic by the Governor or Chief Magistrate of the State whence the person so charged has fled, with an affidavit made before a proper officer showing the person to be a fugitive, it shall be the duty of the executive authority of

this State to cause him to be apprehended, and secured, if found in this State, and to cause immediate notice of the apprehension to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within forty days from the time of apprehension, the fugitive may be discharged. All costs and expense incurred in the apprehension, securing, maintaining and transmitting such fugitive to the State making such demand, shall be paid by such State. Any agent so appointed who receives the fugitive into his custody shall be empowered to transmit him to the State from which he has fled. The executive authority of this State is hereby vested with the power on the application of any person interested, to demand the return to this State of any fugitive within the purview of this act.

#### **LIMITATION ON COMMENCEMENT OF ACTION.**

**Sec. 5.** Be it further enacted, etc., Any proceedings under this act shall be begun within one year after the flight referred to in this act.

#### **INTERPRETATION OF ACT.**

**Sec. 6.** Be it further enacted, etc., This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

#### **REPEALING CLAUSE.**

**Sec. 7.** Be it further enacted, etc., All acts or parts of acts inconsistent with this act are hereby repealed.

### **SELLING, ETC., INTOXICATING LIQUORS TO INSANE.**

**Act 185 of 1910, p. 274.**

#### **TITLE.**

AN ACT making it a misdemeanor for any person or firm knowingly to sell, give, send to, procure or purchase for any inmate, attendant, or employee of the State asylums or hospitals for the insane at Jackson and Pineville any intoxicating liquors, except under the permission of the Superintendents of said asylums or hospitals, and providing a penalty for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be a misdemeanor for any person or firm knowingly to sell, give, send to, procure or purchase for any inmate, attendant, or employee of the State asylums or hospitals for the insane at Jackson and Pineville any intoxicating liquor, except under the permission of the Superintendents of said asylums or hospitals.

**Sec. 2.** Be it further enacted, etc., That any person or firm convicted of the violation of Section 1 of this Act shall be punished by imprisonment in the parish jail for a term of not less than ten days nor more than sixty days, or fined in a sum of not less than ten dollars, nor more than one hundred dollars, or both, at the discretion of the court.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

### **ENTERING ASYLUMS WHILE INTOXICATED, ETC.**

**Act 165 of 1910, p. 249.**

#### **TITLE.**

AN ACT making it a misdemeanor for any person to enter the grounds, premises and buildings of the State asylums or hospitals for the insane at Jackson and Pineville in an intoxicated condition or while having in his or her possession any alcoholic liquor, and providing a penalty for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be a misdemeanor for any person to enter the grounds, premises and buildings of the State asylums or hospitals for the insane at Jackson and Pineville in an intoxicated condition, or while having in his or her possession any alcoholic liquor.

**Sec. 2.** Be it further enacted, by the General Assembly of the State of Louisiana, That whosoever shall be convicted of the violation of Section 1 of this Act shall be imprisoned in the parish jail for a term of not less than ten days nor more than sixty days, or fined in a sum of not less than ten dollars nor more than one hundred dollars, or both at the discretion of the court.

**Sec. 3.** Be it further enacted, by the General Assembly of the State of Louisiana, That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

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## INSOLVENT LAWS.

### [Involuntary Surrender.]

[R. S., Sec. 1781.] Any judgment creditor who shall have issued execution, which has been returned "no property found," after due demand, shall have the right to compel his debtor to make a surrender of his property by proceeding in the following manner: The creditor shall present his petition to the court, or judge at chambers, having jurisdiction of the debtor's domicile, and shall allege that he is a judgment creditor of the debtor, and for what amount; that execution has issued and been returned "no property found after due demand;" that he has reason to believe that the debtor has property or assets which may be made available to his creditors; and shall conclude with a prayer that the debtor be ordered to surrender his property to his creditors. All of which shall be verified by the oath of the petitioning creditor or his attorney." The judge shall thereupon order that the debtor show cause, within ten days from the order on him, why he should not pay the debt of the complaining creditor, or make a surrender of his property to his creditors. Should no good cause be shown, and the debt remain unpaid, the judge shall order the debtor to make a surrender of his property to his creditors within a time to be fixed by him, be amended and re-enacted so as to read as follows, viz: Any judgment creditor who shall have issued execution, which has been returned "no property found," after due demand, shall have the right to compel his debtor to make a surrender of his property by proceeding in the following manner: The creditor shall present his petition to the court, or to the judge at chambers, having jurisdiction of the debtor's domicile, and shall allege that he is a judgment creditor of the debtor, and for what amount; that execution has issued and been returned "no property found," after due demand; that he has reason to believe that the debtor has property or assets that may be made avail-

able to his creditors; and shall conclude with a prayer that the debtor be ordered to surrender his property to his creditors. All of which shall be verified by the oath of the petitioning creditor or his attorney. And in order to ascertain who are the creditors of said debtor, the judge shall order the debtor to file a schedule of his creditors within a delay to be fixed by the judge, together with their residences and the sums due them; and, in case all or a part of his debts consist of obligations in the shape of negotiable instruments, the holders of which are unknown to him, he shall give an accurate description of the same under oath; and should the debtor fail or refuse to comply with this order, he shall be proceeded against as provided for in the second section of said act, for failure to make a surrender. The judge shall thereupon order that a meeting of the creditors take place before a notary public of the debtor's domicile, to be held in the same form and manner as in cases of voluntary surrender; at which meeting a majority of the creditors, in number and amount, shall determine whether the surrender of his property shall be made to his creditors. In such case, the proces-verbal of the deliberations of the creditors shall be homologated in the court ordering the meeting, and the judge shall thereupon order the debtor to make a surrender of his property to his creditors, within a time to be fixed by him; *provided*, that in all cases where a majority of the creditors, in number and amount, shall oppose the surrender, the costs shall be paid by the party making the application.

[**Refusal of Debtor to Make Surrender; Penalty.**]

[R. S., Sec. 1782.] Should the debtor fail or refuse to make a surrender within the time fixed by the judge, he shall order the debtor to prison, there to remain until he shall obey the order.

[**Acceptance of Surrender.**]

[R. S., Sec. 1783.] The surrender shall be made and accepted, syndics elected, and all proceedings conducted in accordance with laws governing voluntary surrenders, and all the laws, rules of proceeding, penalties, etc., governing voluntary surrenders shall apply to forced surrenders in the same manner and as fully as though a voluntary surrender had been made.

[**Surrender of Property; How Made.**]

[R. S., Sec. 1784.] Any person may make a cession of his property to his creditors; provided, the surrender be made bona fide, without fraud, and agreeable to the formalities prescribed hereafter.

[**Petition For Surrender; Contents, Etc.**]

[R. S., Sec. 1785.] Every debtor who shall wish to make a surrender of his estate to his creditors shall present his petition

for that purpose to any judge having jurisdiction; which petition shall briefly state the circumstances which oblige him to make a surrender, and conclude with a prayer to be allowed to call a meeting of his creditors, at such time and place as the court may direct, in order that he may lay before them a statement of his affairs and surrender to them his estate; and that in the meantime all proceedings against his person and property be stayed.

[**Schedule and Its Contents.**]

[R. S., Sec. 1786.] The debtor shall annex to his petition his schedule, that is to say a summary statement of his affairs, and the losses he may have experienced, mentioning the names of his creditors, their places of residence, and the amount of their respective claims, and the schedule shall besides contain a statement of all his property, as well movable as immovable, and his rights and actions (except those which are hereafter secured to him), together with a mention of the approximate value of the property by him assigned.

[**What Property Excepted.**]

[R. S., Sec. 1787.] The debtor is not obliged to comprehend in his surrender any property that is not subject to be seized and sold on execution against him.

[**Schedule Must Be Signed, Etc., by Debtor.**]

[R. S., Sec. 1788.] The schedule shall be signed by the debtor, if he can write, and be by him sworn to or affirmed, before any judge or justice of the peace, in the following words, or others of the same meaning, to-wit:

"I, A. B., do solemnly swear or affirm (as the case may be) that the above schedule contains a correct and faithful statement of all the property I possess, either in movables or unmovables, or in other rights or claims, except, however, those articles which the law authorizes me to keep. And I do further solemnly swear that the schedule contains a correct and faithful statement of my active and passive debts, and of the losses I have experienced in my affairs, and that I have neither directly or indirectly diverted any of my property to the injury of my creditors, so help me God."

And the judge or justice of the peace who shall receive such oath shall certify the same and cause it to be signed by the debtor, or else declare the reason why he could not sign.

[**Proceedings on Surrender; Order of Judge.**]

[R. S., Sec. 1789.] Whenever the judge shall be convinced that the debtor who wants to surrender his property has complied with all the formalities prescribed, he shall endorse on the schedule that the cession of all the property of the insolvent is accepted for the benefit of his creditors, and shall order a meeting of the creditors to be called in the manner and within the

time prescribed for respites—Civil Code, Article 3051, et seq.; he shall also appoint an attorney to represent the creditors absent or residing out of the State, if there be any mentioned in the schedule; creditors represented in the parish shall be considered as residing therein.

[**Stay Order.**]

[R. S., Sec. 1790.] When issuing the order for the meeting of the creditors the judge shall order that all the proceedings, as well against the person as against the property of the debtor, be stayed.

[**Title to Property of Insolvent Rests in Creditor.**]

[R. S., Sec. 1791.] From and after such cession and acceptance all the property of the insolvent debtor mentioned in the schedule shall be fully vested in his creditors; and the syndic shall take possession of, and be entitled to claim and recover all the property, and to administer and sell the same according to law.

[**Provisional Syndic; Electors; Bond.**]

[R. S., Sec. 1792.] The judge shall have power, on the application of at least three of the creditors of the insolvent debtor, to appoint a provisional syndic taken by preference from among the creditors, if any of them offer to accept of the trust, who shall take charge of the estate of the insolvent debtor, and keep the same until a syndic is elected and qualified; the judge shall require from him a bond with one or more good and sufficient securities, the amount of which shall be proportioned to the value of the estate delivered up to him.

[**Duties of Provisional Syndic.**]

[R. S., Sec. 1793.] The duties of the provisional syndic shall consist in keeping, as a deposit, all the goods and other effects of the insolvent debtor which shall be delivered up to him, in performing all the conservatory acts which may be necessary, as well as for the interest of the insolvent debtor, as for that of the mass of creditors, in demanding and receiving the rents and incomes of the property, as also all the claims of the insolvent debtor, which may become due during his administration; of all which he shall render an account to the syndic appointed by the creditors; and when rendering the account, shall be entitled to demand, for his trouble and services, one per cent. on the appraised value of the goods and effects confided to his care, and five per cent. on the rents and income, which he shall have recovered during his administration.

[**Transfer of Property to Provisional Syndic.**]

[R. S., Sec. 1794.] All the goods, titles and claims, which the insolvent debtor shall have mentioned in his schedule, shall

be delivered up to the provisional syndic, and shall remain in his hands, subject to the same sequestration as before; and in case the insolvent debtor should refuse to deliver up the goods and effects in his possession, the judge may compel him to do so, either by ordering the sheriff to seize the property, or by causing the insolvent debtor to be imprisoned until the delivery is effected.

**[Copies of Petition and Schedules.]**

[R. S., Sec. 1795.] The debtor who shall have made a surrender of his property shall immediately deliver into the office of the Notary, or other officer designated to preside at the meeting a copy of his petition, and of the order of court relative to the call, as also his schedules, with all the books and papers which may serve to give an explanation of his affairs, in order that his creditors may take cognizance thereof.

**[Appointment of Syndic, Etc.]**

[R. S., Sec. 1796.] At the meeting of the creditors, after having certified on oath their respective claims to be true and legitimate, they shall proceed to the appointment of a syndic; and the Notary Public before whom the meeting is held shall, before issuing a certificate of election, require from the syndic a bond with one or more good and sufficient securities, in solido, to the satisfaction of the court; the amount of which bond shall be fixed by a rule adopted relative to curators of vacant successions. Two-thirds of the creditors in number and amount may dispense with any security, at the meeting, and so express it in the proces verbal. The syndic shall always be bound to give security for the amount of the mortgage and privileged claims.

**[Creditors Authorized to Vote by Proxy.]**

[R. S., Sec. 1797.] At all meetings the creditors shall be empowered to vote by proxy. The proxies shall fulfill all the obligations and conditions now required by law from the creditors represented by them.

**[Who May Be Appointed Syndic.]**

[R. S., Sec. 1798.] Persons may be appointed syndics to administer ceded property, although they may not be creditors of the ceding debtor.

**[Majority in Number—in Amount, When Decision.]**

[R. S., Sec. 1799.] In all the deliberations which shall take place between the creditors, either for the choice of syndic or for the sale or disposal of the property surrendered, or for any other object, relative to the interest of the mass of creditors, the opinion of the majority of the creditors, in amount, shall prevail; but in case of any equality, then the number of persons shall prevail.

The wife in partnership in goods with her husband, or his heirs, shall not be allowed to vote in the deliberation, unless

their rights should have been previously settled by a partition, or a judgment for a separation of goods.

[**Rights of Privileged, Etc., Creditors.**]

[R. S., Sec. 1800.] The privileged or mortgaged creditors shall not be bound by the decision of the majority of the other creditors, either in amount or persons, if the latter want to sell the property surrendered on a credit. The privileged or mortgaged creditors shall always have the right to require the sale for cash of so much of the property on which their privileges or mortgages rest, as will be sufficient to make the amount due to them, together with interest and cost, and on such credit as will meet the debts as they become due.

[**Duties of Syndic.**]

[R. S., Sec. 1801.] When the syndic shall have been appointed, the meeting of the creditors, and the surrender of the property shall have been accepted, it shall be the duty of the syndic, or of the debtor, to deposit in the Clerk's office an authenticated copy of the proces verbal of their deliberations.

It shall not be necessary to have such deliberations homologated.

[**Opposition to Appointment of Syndic, Etc.**]

[R. S., Sec. 1802.] Should any creditor of the insolvent debtor deem necessary to oppose the appointment of syndic, or to charge fraud against the debtor, he shall, within the ten days next following the meeting of creditors, lay before the court his written opposition, stating specially the several facts of nullity of the appointment or fraud alleged against the insolvent debtor. Whereupon the Judge shall decide said opposition, and in case of accusation of fraud, after having received the insolvent debtor's answer, the court shall order a jury to be summoned, for the purpose of deciding on the accusation.

All persons shall be considered as guilty of fraud, who shall have concealed their body or any of their property, with an intention to keep them from their creditors; as also those who being merchants or shop keepers, shall have concealed their commercial books and papers with the same intention; and the same rule shall apply to any insolvent debtor who shall abscond or absent himself from his usual place of residence, without giving his creditors any account of his affairs, and without having previously surrendered to them his property, or who shall carry off with him any of his goods or effects, or shall transfer the same to any other place, in order to deprive his creditors thereof.

[**Fraudulent Debtors—Who Are.**]

[R. S., Sec. 1803.] Every insolvent debtor shall also be considered as guilty of fraud, who shall have passed simulated deeds for the purpose of conveying the whole or any part of his

property or depriving his creditors thereof, or shall have knowingly omitted to declare any of his property right, or claims in his schedule; or purloined his books; or any of them altered, changed, or made them anew, always with an intent to defraud his creditors, or committed any other kind of fraud to the prejudice of his creditors.

**[What Constitutes Presumptve Fraud.]**

[R. S., Sec. 1804.] If a debtor who has voluntarily surrendered his property to his creditors, or has been proceeded against for a surrender, shall have given within the year an unjust advantage or preference to any one or more of his creditors, by payment or otherwise, or shall have anticipated the payment, or provided for the payment of a debt not due, the effect whereof shall be to injure the complaining creditor; or shall purchase property for cash, the delivery whereof shall be made to him, and then shall sell or dispose of the same without paying his vendor, or shall remove the same beyond the reach of such vendor, or shall conceal or cover the same in any manner so that his vendor cannot render the same liable, or shall fail to pay over money received or collected for or deposited with him for another, or shall have made a conveyance, transfer, mortgage or pledge of his property to the prejudice of the complaining creditor; any such act shall be held presumptive evidence of fraud, liable however, like all other presumptions, to be disproved.

**[Arrest of Debtor.]**

[R. S., Sec. 1805.] Any creditor who may justly believe that he has good cause of complaint, may appeal to a competent Judge, who may thereupon order the arrest and confinement of the party complained of, until he shall give bond, in a sum to be fixed by the Judge, with one or more solvent sureties residing in the State, conditioned for such party's appearance to answer the petition and abide the final order of the court thereon.

**[Interrogation of Debtors in Case of Fraud.]**

[R. S., Sec. 1806.] Upon an accusation of fraud, the creditor who shall have brought the same, shall have the right to interrogate the insolvent debtor, and to put to him such written questions on the state of his affairs, and the several transactions in which he may have been engaged, as he shall think prpoer; and the debtor shall answer in writing, in a pertinent and distinct manner; and every insufficient answer on his part shall be construed against him.

**[Debtors Convicted of Fraud; Penalty.]**

[R. S., Sec. 1807.] If the jury, summoned for the purpose of deciding on the accusation of fraud brought against the insolvent debtor, declare in their verdict that he has been guilty of fraud, the insolvent debtor shall forever be deprived of the

benefit of the laws passed in favor of insolvent debtors in this State, and shall be sentenced to imprisonment for a term not exceeding three years; and if it shall appear that the debtor has only been guilty of conferring an unjust preference or advantage upon another bona fide creditor, whose demand was actually due, such defendant may be relieved from imprisonment by paying the complaining creditor, or repairing the injury or fraud complained of; and in case the jury or court shall find the charges against the debtor unfounded, and that he has proceeded without reasonable ground of suspicion, they may impose such damages against the party complaining, as may be reasonable and just. The creditor who may proceed against his debtor under the provisions of this and the three preceding sections, may, in the same action, proceed against the party in favor of whom the defendant may have made the sale, mortgage, pledge, assignment or payment complained of; and the court may render judgment against such third party, according to law.

[**Debtor Debarred From Benefit of Insolvent Laws.**]

[R. S., Sec. 1808.] Any debtor who shall, within three months next preceding his failure, have sold, engaged or mortgaged any of his goods and effects, or shall have otherwise disposed of the same, or confessed judgment, in order to give an unjust preference to one or more of his creditors over the others, shall be debarred from the benefit of the insolvent laws, and the said deed or acts shall be declared null and void. If the purchaser of such property shall prove that the property was either sold or engaged to him for a true and just consideration, by him bona fide delivered at the time of such deed, then, and in that case, the sales and mortgages shall be declared valid.

[**Defaulter Deprived of Benefit of Insolvent Laws.**]

[R. S., Sec. 1809.] All defaulting receivers of public funds of any kind, and all unfaithful depositaries shall be deprived of the benefit of all acts passed for the relief of insolvent debtors; also all those whose losses shall have been occasioned by gambling, dissipation or debauch.

[**When Sheriff Acts as Syndic.**]

[R. S., Sec. 1810.] If, on the day appointed for the meeting, the creditors, although duly summoned, do not attend, or refuse to appoint a syndic, it shall be lawful for the Judge, on a certificate of the Notary or other public officer, in whose office the meeting was held, stating that the creditors did not attend, or would not appoint a syndic, to authorize the Sheriff to perform in every respect the functions of syndic, unless any of the creditors should choose to take that charge, in which case the Judge shall appoint the creditor for that purpose, on his giving bond with good and sufficient security according to law.

**[Duties of Syndic; May Exercise Without Authority of Court.]**

[R. S., Sec. 1811.] The syndic, without any authorization from any court for that purpose, is authorized to sue and be sued in everything which respects the rights and actions which may belong to the insolvent debtor, and which may concern the mass of creditors; and, finally, he shall make a distribution of the proceeds of the property, agreeably to the directions of the court.

**[Disposal of Debtor's Rights; Corporal and Incorporeal.]**

[R. S., Sec. 1812.] The property ceded, excepting incorporeal rights, shall be ordered by the court to be sold at public auction, at such times and places and upon such terms and conditions as may be determined by the creditors; and incorporeal rights, actions and credits may also be sold by public auction, by virtue of an order of the court before which the proceedings are depending, to be made upon the petition of the syndic, setting forth the reasons which may render such a mode of disposition advisable.

**[When Syndic May Release Mortgages.]**

[R. S., Sec. 1813.] The syndic, for the purpose of effecting the sale of the property assigned, shall be authorized to give a release of the mortgages existing on the property in favor of any of the creditors. He shall keep in his hands the proceeds, subject to the same rights in favor of the mortgage creditors, which they had in the property itself.

**[Vacancy in Office of Syndic; How Filled.]**

[R. S., Sec. 1814.] In case of vacancy in the office of Syndic, by removal or otherwise, a meeting of the creditors to fill the vacancy shall be ordered.

**[Declaration of Dividends; Tableau.]**

[R. S., Sec. 1815.] When the time when a dividend shall be declared, or the Syndic shall be called on by any creditor to make a showing of the amount of funds in his hands, if it shall appear that the Syndic has funds to distribute, he shall make out a tableau of distribution within the ten days next following the day of the filing the statement of his account in the clerk's office, containing the names of the several creditors of the insolvent debtor, and mentioning the sums which are due to them respectively; and the tableau shall besides contain the distribution of the sum to be divided among all the creditors in following the order of privileges or mortgages, if any they have, or proportionally if they are ordinary creditors; and the Syndic shall deposit the tableau in the clerk's office; the clerk shall notify the creditors thereof according to law.

**[Disposition of Suits Brought Anterior to Failure.]**

[R. S., Sec. 1816.] All the suits which may have been brought anterior to the failure shall be transferred to the court in which the insolvent debtor shall have presented his schedule, and shall be continued against his Syndic.

**[Fees of Attorney for Absent Creditors.]**

[R. S., Sec. 1817.] The fees of the counsellor who shall be appointed to represent the absent creditors shall in no case be paid by the mass of creditors, but shall be levied on the amount which shall be recorded for the account of the absent creditors at the rate of five per cent; provided, that in no case shall the fees exceed the sum of two hundred and fifty dollars.

**[Commissions of Syndic.]**

[R. S., Sec. 1818.] The creditors may in their deliberation, at the time of electing a Syndic, determine the rate and amount of the commissions to be received by him; and such determination shall be valid and binding upon the Syndic, who shall accept the trust. In no case shall the Syndic be entitled to receive greater commissions than at the rate of five per centum upon the net amount of money received, when the commissions of the Syndic have not been fixed by the deliberation of the creditors, commissions shall be allowed at the following rates, to-wit: Five per centum upon a sum not exceeding fifty thousand, three per centum upon sums above fifty thousand and not exceeding one hundred thousand dollars, and two per centum upon all sums exceeding one hundred thousand dollars. And, provided further, that the commissions shall be allowed only on such net sums of money as shall actually come to their hands, or be disbursed and distributed by them.

[R. S., Sec. 1819.] Discharge of debtors from arrest on making surrender. C. P., Art. 219.

[R. S., Secs. 1820, 1821.] Deposit of money by Syndics—may be compelled to file account. R. C. C., Arts. 1150, 1151.

[R. S., Sec. 1822.] Directs amendment to C. C. 3053, so that majority of creditors in number and amount shall prevail. R. C. C. 3086.

**EXECUTORY PROCESS ON PROPERTY OF INSOLVENTS.****Act 15 of 1894, p. 12.****TITLE.**

AN ACT relative to executorial process upon the property of insolvents, making cessions of their property.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That creditors holding special mortgages containing the pactum de non aliunde shall not lose their rights of executorial process upon the property

of their debtor, by reason of a cession of property, but in such cases the right shall continue and be exercised against the syndic, and when the cession takes place after the seizure under executory process it shall be continued against the provisional or definitive syndic.

Sec. 2. Be it further enacted, etc., That in all cases when executory process has issued and a surrender has been made and a provisional or definitive syndic has been appointed, the sale under the first process shall be affected the same as if no surrender has been made or syndic appointed.

Note. The act is not unconstitutional as having been passed without compliance with all the formalities prescribed by law. State ex rel. Gurley vs. King, 49 A. 881. A mortgagee has the right to executory process on the property of an insolvent, the creditor cannot be forced into the insolvency proceedings. Scovell vs. Heirs of Levy, 106 L. 118. The proceedings must be had contradictorily with the syndic, who has the legal capacity, on behalf of the mass of the creditors, to urge all the defenses which the situation may demand. Trezevant vs. Levy Heirs, 114 L. 867.

## DEPOSITORY FOR FUNDS OF INSOLVENTS AND SUCCESSIONS.

Act 60 of 1898, p. 85.

### TITLE.

AN ACT providing for a depository for funds of successions or insolvencies in certain cases.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever, in the settlement of a succession or insolvents, it shall happen that some of the heirs or creditors shall refuse to accept their redistribution share as fixed by the tableau of distribution, and receipt therefor to the administrator, or when it shall happen that there are minors among the heirs or creditors, not represented by tutors, the judge shall order the administrator or syndic to deposit in any fiscal agency of the State to the credit of the persons entitled to same the amounts due such persons and on proper showing that said deposit has been made, the administrator or syndic shall be entitled to his discharge, provided he has accounted for all the property and funds in his possession according to law.

Sec. 2. Be it further enacted, etc., That this Act shall take effect from and after its passage, and that all laws in conflict herewith be and the same are hereby repealed.

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## INSPECTION.

[R. S., Sec. 1823.] There shall be appointed by the Governor of the State, by and with the advice and consent of the Senate, ten Inspectors of Tobacco for the city of New Orleans, to be denominated the "New Orleans Board of Tobacco Inspectors."

### [Term of Office, Oath, Etc.]

[R. S., Sec. 1824.] They shall be appointed for the term of four years, shall take an oath faithfully to discharge the duties of the office, as prescribed by law, and shall give bond to the State for the sum of ten thousand dollars (with two sureties for five thousand dollars, each good for the amount, to be approved by the Treasurer of the State), for the faithful performance of their duties while in office; and each person offering himself as

security shall take an oath before some competent magistrate that he is worth what he is surety for, and said surety shall be liable on said bond, not only to the State, but to all persons who shall have suffered damage by the wrongful act, neglect or inattention of the Inspectors.

[**Board of Inspectors.**]

[R. S., Sec. 1825.] It shall be their duty to organize themselves as a Board, appointing one of their own number as President of the Board and another Secretary. Seven members shall constitute a quorum. The Board of Inspectors shall have a common seal. In the absence of the President or Secretary, the Board shall name a President or Secretary pro tempore. The President and Secretary shall be chosen yearly, and allowed each two hundred dollars per annum for their services.

[**Duties of President and Secretary.**]

[R. S., Sec. 1826.] It shall be the duty of the President to call meetings of the Board, and preside over their deliberations. It shall be the duty of the Secretary to record their proceedings, and in such manner as to show the vote of each member upon questions submitted to the Board.

[**Contracts.**]

[R. S., Sec. 1827.] All contracts of the Board shall be submitted to them, and shall be approved of by a majority of the whole number of Inspectors.

[**Authority to Make Rules and By-Laws.**]

[R. S., Sec. 1828.] They shall have authority to make rules and by-laws for the regulation of the members in the discharge of their duties, which by-laws shall not be inconsistent with the laws and Constitution of this State and of the United States.

[**Warehouses to Be Provided.**]

[R. S., Sec. 1829.] It shall be the duty of the Board to provide suitable warehouses in the city for the storage of tobacco at the lowest rates at which they can be obtained, two of which shall be located in the Fourth District; which warehouses shall be fireproof and floored with plank two inches thick, and provided with a sufficient number of presses, and shall be located at such point as will be most convenient for the reception of tobacco, and for the convenience and interest of those engaged in the tobacco trade.

[**Reception of Tobacco.**]

[R. S., Sec. 1830.] When the tobacco is brought to the warehouse, it shall be received by the Inspector or Inspectors allotted to said warehouse or their clerk, who shall immediately

mark with ink the warehouse numbers, commencing with one and running to the end of the year, on each end of the cask; when called on by the owner or agent to inspect a lot of tobacco, they shall cause the hogshead or cask to be placed at a convenient distance from the press and under the eye of the Inspector or their clerk to cause one head of the cask to be taken out; the cask must then be headed upon the open end, and the whole cask be taken from the tobacco and weighed. The weight of the cask being the tare, shall be marked on it with a marking iron. The Inspector shall then have the tobacco broken in four different places, from each of which he shall draw four hands or bundles of tobacco, which shall be tied up neatly and compactly, the bundle from the top breaks forming the first layer of the sample. The Inspector shall be careful that the sample shall be a fair representation of the quality of the whole hogshead of tobacco, as near as he can make it. The tape or twine used in tying up the sample shall pass through the hands of tobacco, and a seal of wax shall be put on each sample. One end of the sample card which expresses the quality of the tobacco, the warehouse number, inspection number, and initials of the Inspectors' names who have inspected it shall be put under the seal of wax. When a hogshead or cask of tobacco is damaged, if practicable, the damaged portion shall be cut off and held at the disposal of the owner or agent. The quantity so trimmed shall also be expressed on the sample card with ink. If the damage be to such an extent that it cannot be trimmed off, the Inspectors shall refuse to classify the hogshead. They shall give a sample of it, expressing the probable extent of the damage, but without inspection seal. If upon the inspection of a hogshead of tobacco it be apparent that it is falsely or fraudulently packed, said hogshead shall be marked "condemned," and the Inspectors shall refuse to give a sample of it. It shall then be at the disposal of the owner or agents subject to the same charges as if it had been inspected. If the cask or hogshead shall prove to be of green or unsound timber, the Inspectors shall provide a suitable cask at the expense of the owner or agent.

**[Classification of Tobacco.]**

[R. S., Sec. 1831.] There shall be two classes of tobacco, to-wit: Admitted and Refused. The Inspectors shall class as Admitted all tobacco they may find to be sound, well cured and in good keeping condition; and they shall class as Refused all such tobacco as they may find to be soft, high in case, or otherwise unsound.

**[Reinspection.]**

[R. S., Sec. 1832.] When the Inspectors are called upon to reinspect a lot of tobacco, they shall make a copy of the original sample card, and shall write on it with ink in plain letters "reinspected," and shall give the date of the same.

**[Procedure After Inspection.]**

[R. S., Sec. 1833.] When the inspection of one or more hogsheads of tobacco is finished, the laborers of the warehouse, under the eye of an Inspector or their clerk, shall have the cask returned to the tobacco, and the loose tobacco shall also be returned, and, should it be impossible to put it all in, it shall be held subject to the order of the owner; after it is placed under the press, it shall be coopered up, in good condition for shipping, each cask having six hoops. The cask shall then be weighed by an Inspector or their clerk, and the gross weight marked in ink over the tare weight. The gross weight, the tare, and the warehouse number shall also be marked with marking irons, by cutting with the same on the bilge of the hogshead or cask, and the cask then stored away.

**[Book of Inspection.]**

[R. S., Sec. 1834.] The particulars of each day's inspection shall be recorded in a book to be kept in each warehouse for that purpose, in which shall be noted all the marks and numbers on the cask when received, the gross weight, tare, warehouse number, inspection number, by whom inspected, and for whose account.

**[Certificate of Inspection.]**

[R. S., Sec. 1835.] The samples and a certificate corresponding with the record of inspection shall then be issued to the owner or agent, and shall be a receipt for the tobacco. This certificate shall be transferable by endorsement or otherwise, which shall be evidence of its delivery. When the legal holder of the certificate shall call for the delivery of the tobacco, it shall be the duty of the Inspectors to have the hogshead promptly delivered at some opening of the warehouse which is accessible by a paved street.

**[Temporary Receipts.]**

[R. S., Sec. 1836.] On receiving tobacco in the warehouse, the clerk of the Inspectors shall give temporary receipts to the owner or agents, acknowledging the receipt thereof, which they may require to be surrendered upon the issuance of their certificate of inspection. The Inspectors shall be liable for all tobacco stored with them, and shall be responsible to all persons interested in the same, for the correctness of their sample and weights. The Inspectors shall have recourse upon the particular Inspector or Inspectors whose neglect or wrongful act has caused the damage.

**[Inspectors Prohibited From Dealing in Tobacco.]**

[R. S., Sec. 1837.] The Inspectors themselves, and the persons employed by them, are prohibited from dealing or trading in tobacco, either in their own names or in the names of

others, in any manner whatever, or from being connected with or having any interest in the business of other persons dealing in tobacco, or from putting up loose tobacco in bales or hogsheads, or from being interested in any manner in the warehouse rented by them for the storage of tobacco; or from owning or being interested in any of the laborers or coopers employed in the warehouses, or from having any interest in the drayage of tobacco to and from the warehouses; and, upon conviction of the violation of any of the above prohibitions, the Inspector, or other person so offending, shall be deprived of his office, and shall be subjected to a fine of not less than five hundred nor more than two thousand dollars; and any Inspector, upon conviction of making willfully a false or fraudulent inspection, or accepting a bribe in relation to the discharge of the duties of his office, shall be deprived of his office and shall suffer imprisonment in the penitentiary not less than three months nor more than two years.

**[Number of Inspectors.]**

[R. S., Sec. 1838.] All tobacco shall be inspected by two Inspectors in the presence of each other; and, in case of disagreement between them, a third Inspector shall be called in, who shall decide upon its quality.

**[Inspection Outside Warehouses.]**

[R. S., Sec. 1839.] The Inspectors shall not inspect tobacco at any other warehouse than those provided as contemplated by the preceding section.

**[Fees of Inspection.]**

[R. S., Sec. 1840.] The fees for receiving, weighing, inspecting, storing for two months, coopering, and all other duties imposed by law upon the Inspectors, shall not exceed two dollars and fifty cents per hogshead, one-half of which shall be paid by the purchaser to the seller. For re-inspecting, re-weighing and coopering the charge shall be seventy-five cents for each hogshead. On tobacco remaining in store more than two months from date of receipt, they shall charge extra storage at the rate of twenty-five cents per month. On tobacco stored on which there is no inspection, fifty cents per month. The owner or agent storing the tobacco shall be bound for the fees, and there shall be a privilege upon the tobacco for them.

**[Clerks to Be Employed.]**

[R. S., Sec. 1841.] The Board of Inspectors shall be allowed to employ two clerks for each warehouse, to hold their places at the pleasure of the Board; the first to receive out of the funds hereinafter provided a salary not to exceed one thousand dollars per annum, the other not to exceed six hundred dollars. The

Board shall also be allowed to employ a sufficient number of laborers and coopers for each warehouse.

[**Vacancies, How Filled.**]

[R. S., Sec. 1842.] Should any vacancy occur in the Board of Inspectors, by death, resignation, deprivation of office, or from any other cause, it shall be the duty of the Governor to appoint a competent successor, subject to the ratification of the Senate, as other civil appointments made by the Governor; and the Inspector so appointed shall in all respects conform to the requirements of law. All appointments under this section shall be for the unexpired term of four years.

[**Treasurer; Appointment, Oath, Bond.**]

[R. S., Sec. 1843.] The Governor, by and with the advice and consent of the Senate, shall appoint a competent person, a citizen of the State of Louisiana, to act as Treasurer to the said Board of Inspectors. The salary of the Treasurer shall be two thousand five hundred dollars per annum. The Treasurer shall take an oath faithfully to discharge the duties of his office, and shall give bond, with two good securities, in the sum of ten thousand dollars each, for the faithful performance of the duties of his office, said bond to be approved by the Secretary of State, and each security to make oath that he is worth over and above all his debts the amount for which he is security. In case of a vacancy in said office, the Governor shall supply the place as soon as practicable, in the same manner pointed out for the appointment of Inspectors in case of vacancy.

[**Duties of Treasurer.**]

[R. S., Sec. 1844.] It shall be the duty of the Treasurer to keep the books and accounts of all moneys received and disbursed, and collect all fees and provide for the safe-keeping of them; to pay all expenses incurred, all bills of which to be approved by the Board of Inspectors. He shall, at the end of each month, pay to each Inspector (all other demands upon the Treasury being satisfied) equal portions of any moneys in his hands; provided, that these payments do not exceed, to each Inspector, a salary of four thousand dollars per annum at the close of each year, commencing on the first day of November. Should there be any balance in his hands after paying the various clerks, laborers, rents of warehouses, and all the expenses of the inspection, it shall be appropriated as follows: The surplus funds remaining in the hands of the Treasurer of the Tobacco Inspector shall, at the end of each year, be deposited by him in the hands of the Treasurer of the State, to be held by him as a reserved fund for the benefit of the tobacco trade of this city, at the discretion of the Legislature of this State; and said fund may be from time to time vested in the purchase of ground and the erection of buildings thereon for the storage of tobacco, the

object being thereby to reduce the charges on tobacco brought to this market for sale, the State not to derive revenue from the receipts of such property, the Legislature having the power, at their discretion, to dispose of property so purchased, and buildings and reinvesting, for the same purposes, the amount received, whenever it shall be desirable by the increase of the city and the advanced value of such property. He shall furnish to the State Treasurer monthly abstracts of all moneys received and disbursed by him, which shall be approved by the Board of Inspectors. The Treasurer shall be prohibited from being interested in any manner in the warehouses as before provided. For any willful violation of the duties of his office he may be proceeded against by information or indictment, and on conviction shall be deprived of his office and fined not less than five hundred dollars nor more than two thousand dollars. For any corrupt or fraudulent conduct in the discharge of the said office, or for any defalcation in the payment of the funds intrusted to the said Treasurer, upon conviction, he shall be imprisoned in the penitentiary not less than three months nor more than five years. But nothing herein shall be so construed as to exempt the Treasurer from liability in civil suits for damages or loss any party may have sustained by his neglect or wrongful act.

**[Inspection of Books of Treasurer.]**

[R. S., Sec. 1845.] The books required to be kept by the Treasurer, the Board of Inspectors, and the clerks of the warehouses shall at all times be accessible for examination by the executive officer of this State, and all persons interested, and all the entries shall be evidence against the Inspectors and the officers keeping them, in civil and criminal cases.

**[State Not to Be Charged With Fees of Officials.]**

[R. S., Sec. 1846.] Nothing herein shall be so construed as to authorize any charge upon the treasury of the State for any of the salaries or expenses, the fees of inspection being the fund out of which they are to be paid.

**[Deputy Inspectors.]**

[R. S., Sec. 1847.] In case either of the Inspectors shall be unable to attend to his duties on account of sickness, he may nominate a deputy to the Board, who, if accepted by the majority of said Board, shall do and perform, for a term not longer than forty-five days, the duties of said principal Inspector, he being responsible for all the acts of said deputy.

**[Inspection of Beef For New Orleans.]**

[R. S., Sec. 1848.] That the Governor is required to appoint, by and with the advice and consent of the Senate, three repackers and inspectors of beef and pork for the city of New Orleans.

**[Stores, Etc., to Be Provided by Inspectors.]**

[R. S., Sec. 1849.] The inspectors and repackers shall provide themselves with good and sufficient stores or yards, capable of receiving and storing such beef and pork as may be brought to them for inspection, in such places as shall be most convenient to employers, and best calculated to facilitate their business; but nothing shall be allowed for storage for any beef or pork inspected by them, if taken away within three days after notice given to the owner, or his agent, of its being inspected and repacked; provided, that no beef or pork shall be inspected and repacked in any part of the city and suburbs between Garrison and Girod streets.

**[Barrels; Contents, Brands, Etc.]**

[R. S., Sec. 1850.] All barrels shall be made of good seasoned oak, or ash, free from every defect; and every barrel shall contain two hundred pounds of beef or pork, the barrel not to measure more than eighteen inches across the head and twenty-eight long, to be hooped with at least twelve good, substantial hoops; the barrel to be branded on the bilge with at least the initials of the cooper's name and weight which is contained in each barrel, and also to be plainly branded with the first letters of the Christian name and the surname at full length of the inspector.

**[Inspection, How Made.]**

[R. S., Sec. 1851.] The inspectors and repackers shall carefully inspect all beef and pork, and shall brand only such as shall be well fattened; the best quality shall be denominated "mess pork," and shall consist of none but the sides of good fat hogs, and the barrels containing it shall be branded at one of the heads, "mess pork." The second quality shall be denominated "prime," of which there shall not be in a barrel more than three shoulders, the legs being cut off at the knee-joint; the barrel shall not contain more than twenty-four pounds of head, which shall have the ears and snout cut off at the opening of the jaws, and the brains and the bloody grizzle taken out and the rest of the pork, to constitute a barrel of prime pork, shall be made up of sides, necks, and tail pieces; and on the head of every barrel of such pork shall be branded, "prime pork." The third quality of pork shall be denominated "cargo pork," of which there shall not be in a barrel more than thirty pounds of head and four shoulders, and shall otherwise be merchantable pork, and shall be branded on one head of each barrel, "cargo pork."

**[Beef For Export; How Sorted, Etc.]**

[R. S., Sec. 1852.] All beef to be repacked for exportation shall be fat cattle, and shall be cut into pieces, as square as may be, and shall not exceed twelve nor be less than four pounds

weight, and all beef which shall be fat and merchantable shall be sorted and divided into three different classes, to be denominated mess, prime, and cargo.

Mess shall consist of the choicest pieces of large, well fattened beef, without hocks, shanks, clods, or necks, each barrel to contain two hundred pounds of beef, and to be branded on the head, "mess beef." Prime beef shall consist of the choicest pieces of fat cattle, with not more than one-half neck, nor more than two flanks, with the hocks cut off the hind legs, in the smallest place above the joint, in a barrel, and branded "prime beef" on one head.

Cargo beef shall be of fat cattle, with a proportion of good pieces, and not more than one-half of necks, three flanks, with the hocks cut off in the same manner as in prime, in a barrel, and to be otherwise merchantable, and to be branded "cargo beef." The repacker shall not put less than two pecks of coarse salt and six ounces of saltpetre in each barrel, and shall fill it with pickle as strong as salt can make it.

[**Fraud or Neglect of Duty.**]

[R. S., Sec. 1853.] If any inspector shall be guilty of neglect or fraud, or shall in any way violate the duties imposed on him by law, he shall be liable to a fine of fifty dollars, to be recovered before any court of competent authority, one-half to the benefit of the informer, and, moreover, shall be liable for damages to any person aggrieved.

[**Mixing or Changing Grades, Marks, Etc.**]

[R. S., Sec. 1854.] If any person shall intermix, take out, or shift any beef or pork, packed and branded, as herein provided, or put in any other beef or pork, for sale or exportation, or alter, change or deface any brand or mark of any inspector, said person shall, for every offense, pay a fine of forty dollars, one-half for the use of the informer, and, moreover, shall be liable for damages to any person aggrieved.

[**Inspector Not to Deal in Beef, Etc.**]

[R. S., Sec. 1855.] No inspector and repacker of beef and pork shall buy or sell more than shall be necessary for his own consumption.

[**Fees Must Be Paid Before Removal, Etc.**]

[R. S., Sec. 1856.] No beef or pork that shall have been inspected and repacked shall be taken from the stores and yards of the inspectors, unless all the expenses be previously paid; and no owner or seller of beef and pork shall suffer the same, after inspection, to remain more than twelve hours exposed to the sun or to bad weather.

**[Fees For Inspection, Etc.]**

[R. S., Sec. 1857.] The inspectors and repackers shall be entitled to demand and receive for every barrel of pork or beef they shall inspect, repack and salt, thirty-three cents and one-third, besides the price of the salt, saltpetre and other extra services.

**[Penalties, How Appropriated.]**

[R. S., Sec. 1858.] All the proceeds of property forfeited, and penalties incurred on the subject of the inspection of beef and pork, shall be one-half for the benefit of the Asylum for Orphan Boys in the city of New Orleans, and the other half for the person prosecuting in the name of the State.

[R. S., Secs. 1859 to 1865, inclusive.] Are based on Act 159 of 1867. This act was amended by Act 71, E. S. 1870, p. 156, and the amending act was repealed by Act 23, 1892, p. 33. Act 87, 1876, Sec. 6, p. 133, incorporating "The Merchants' Exchange Association of New Orleans," provided for the appointment of the "Board of Flour Inspectors for the City and Port of New Orleans," and apparently for the voluntary inspection of provisions, etc.; the repealing clause of Act 23, 1892, however, provides "henceforth there shall be no compulsory inspection of flour in Louisiana."

[R. S., Secs. 1866 to 1868, inclusive.] Relating to the inspection of hay in the city and port of New Orleans, were, after Sec. 1867 and by Act 54, 1886, repealed by Act 111, 1888, p. 175.

**[Inspector of Flour, Etc., For Jefferson Parish.]**

[R. S., Sec. 1869.] It shall be the duty of the Governor to appoint a suitable person to be Flour, Beef and Pork Inspector in and for the parish of Jefferson.

Note. See annotation to R. S., Sec. 1869.

**[Fees of Inspector.]**

[R. S., Sec. 1870.] Said Inspector shall be entitled to the same fees as are now allowed to the Inspector of Flour, Beef and Pork in and for the city of New Orleans.

**[Powers and Duties.]**

[R. S., Sec. 1871.] He shall have and exercise the same rights, privileges and powers as are conferred by the several laws of this State upon the Inspectors of Flour, Beef and Pork, for the city of New Orleans.

**[Appointment of Inspector.]**

[R. S., Sec. 1872.] The Governor, with the advice and consent of the Senate, shall appoint an Inspector of Flour, who shall also fulfill the duties of Inspector of Weights and Measures

for the town of Washington, whose duties, compensation and penalties shall be the same as are now prescribed and are allowed by the existing laws regulating the same for the city of New Orleans.

[**Inspection to Be Voluntary, Etc.]**

[R. S., Sec. 1873.] It shall be lawful for any owner, agent, consignee, or receiver of produce, to sell or ship the same, with or without inspection; provided, however, that the said owner, agent, consignee, or receiver shall be bound to have any produce offered for sale inspected, when inspection shall be demanded by the purchaser. Said inspection, when required, shall be made by the Inspector commissioned under the authority of the State.

Note. R. S., Sec. 1873, insofar as it may relate to the Inspector of Hay in the City of New Orleans is repealed by Act 111, 1888, p. 175.

**GAUGING AND INSPECTING COAL OIL.**

**Act 37, E. S. 1877, p. 60.**

**TITLE.**

AN ACT to provide for gauging and inspecting coal oils and illuminating oils, or fluids derived wholly or in part from coal or petroleum; to regulate the sale or disposition of the same; to prohibit, in certain cases, the sale or disposition of illuminating oils or fluids dangerous to life, and property, and to prescribe penalties for violations of this Act.

**CONTROL OF INSPECTION, ETC., BY BOARD OF HEALTH.**

Section 1. (As amended by Act 199, 1918). Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the Board of Health of the State of Louisiana shall have control of the inspection and gauging of coal oils and of all illuminating oils derived wholly or in part from coal or petroleum, and of all fluids commonly known in commerce as solar-distillate, (only for illuminating purposes, naphtha, deodorized naphtha, gasoline or benzine, or by any other similar name; and shall be authorized to make rules and regulations in regard thereto not inconsistent with the provisions of this act.

**APPOINTMENT OF GAUGERS AND INSPECTORS.**

Sec. 2. (As amended by Act 199, 1918). Be it further enacted, etc., That the said Board of Health shall appoint a proper number of suitable persons to be gaugers and inspectors throughout the State of Louisiana, who shall subscribe to an oath in accordance with the provisions of this act, and who shall likewise bind themselves to perform such other duties as may at any time be required of them by the Board of Health for the better execution of the purposes of this act. That the said gaugers and inspectors shall hold their offices during the pleasure of the Board, and shall furnish bond in a sum to be fixed by the Board, not exceeding Three Thousand Dollars (\$3,000), with good and solvent security for the faithful performance of their duties, in favor of the President of the Board of Health; and they shall receive such salaries as may be fixed by the Board.

**DUTIES OF GAUGERS AND INSPECTORS.**

Sec. 3. Be it further enacted, etc., That it is hereby made the duty of the gaugers and inspectors appointed under this Act, upon notice received in writing from parties interested, to ascertain, first, the correct number of gallons of oil or fluid each barrel or vessel contains; secondly, to inspect all coal oils or illuminating fluids, or oils derived wholly or in part from coal or petroleum, and to ascertain by Tagliabucco's pyrometer, or by any other proper instrument approved by the Board of Health, the flashing

point of such oils or fluids in degrees of Fahrenheit's thermometer, and to mark upon each barrel or vessel containing such oils or fluids, in plain and distinct letters, characters or figures, by stencil plate or otherwise, as the Board of Health may direct, the name of the gauger and inspector making such inspection; the place and date of such inspections the number of gallons and the flashing point, in degrees as aforesaid, of the oils or fluids contained in said barrels or vessels.

#### **CERTIFICATES OF INSPECTION.**

Sec. 4. (As amended by Act 199, 1918). Be it further enacted, etc., That upon such inspection being completed, the gaugers and inspectors shall furnish to the party requiring such gauging and inspection, a certificate of the same, made in duplicate, one copy of which shall be delivered to the Board. That the Board shall collect a fee of one-eighth of one cent per gallon fluid gauged or inspected; provided, that the provisions of this act shall not apply to any oil destined for sale or consumption beyond the limits of the State, and that all such oil be branded by the seller for export beyond the limits of the State.

#### **SALE OF NON-INSPECTED OIL, ETC., PROHIBITED.**

Sec. 5. Be it further enacted, etc., That it is hereby declared unlawful for any person, firm, company or corporation, to sell or expose for sale, or dispose of, except as a common carrier, any coal oil or illuminating oil or fluid, derived wholly or in part from coal or petroleum, until the same shall have been gauged and inspected and marked as provided in Section 3 of this Act; and any person, firm, company or corporation violating any of the provisions of this section shall be liable to a penalty not to exceed the sum of two hundred dollars for each and every offense, and shall be debarred from any suit at law to recover the price of such oils or fluids from the purchaser thereof.

#### **TEST OF OIL SOLD, ETC., PENALTIES FOR VIOLATION.**

Sec. 6. (As amended by Act 23 of 1900, p. 191). Be it further enacted, etc., That hereafter it shall not be lawful for any person, firm, company or corporation, to sell, give or deliver, except as a common carrier, or offer or expose for sale, any coal or illuminating or burning oil or fluid derived wholly or in part from coal or petroleum for illuminating or burning purposes, whose flashing point shall be at less than the temperature of one hundred and twenty-five degrees, to be ascertained according to the regulations of the Louisiana State Board of Health, and if the wholesale or retail dealer shall remove the contents from the receptacles marked "Explosive and Dangerous" into other tanks or receptacles, he shall cause said other tanks or receptacles to be marked "Explosive and Dangerous," in plain letters so as to be seen by the purchaser or purchasers, and shall further label the containers in which the oils are delivered to purchasers "Explosive and Dangerous. Not to be used for illuminating or burning purposes."

Any firm, person, company or corporation violating any of the provisions of this section shall be liable to a penalty not exceeding the sum of two hundred dollars for each and every offense.

It is further provided, that in the event of any injury or damage to person or property resulting from or caused by such fluid not so stamped, the party thus suffering shall have the right of action in damages against the person, firm, company or corporation selling, giving or delivering such oil or fluid, for the full amount of such injury or damage, together with all the costs of court, provided this Act shall not apply to common carriers; provided, further, that such injury or damage shall not have been the result of gross negligence or carelessness.

Dealers in coal oil in towns and parishes which receive such oils in bulk, i. e., in car tanks and in barrels and cases, sufficient number to be determined by the State Board of Health, shall not open the containers of such oils until these oils have been inspected and stamped by an Inspector of the Louisiana State Board of Health. The State Board shall send an inspector to the locality as soon as a request is made upon it in

writing by the consumer, dealer, or Health Officer. Requests may be made upon the Board by telegraph at the expense of the Board, stating the quantity of oil to be inspected.

Nothing in this Act contained shall in any manner affect the sale of the volatile oil known as "Gasoline," provided, said gasoline shall have been tested by the Inspectors of the State Board of Health, and the receptacles or containers holding same branded or labeled in accordance with the regulations of the said State Board of Health.

#### OILS DERIVED FROM NAPHTHA, ETC.

Sec. 7. Be it further enacted, etc., That from and after this date, it shall not be lawful for any person, firm, company or corporation to sell, give or deliver, except as a common carrier, any illuminating oil or fluid, derived wholly or in part from coal or petroleum, and known commonly in commerce as naphtha, deodorized naphtha, gasoline or benzine, or by any other similar name, unless the same shall have been inspected in the manner provided for illuminating oils or fluids in Section 3, and it shall further be the duty of all gaugers and inspectors, besides gauging and inspecting such oils or fluids, to stamp the same with stencil or otherwise in conspicuous letters, with the words "Explosive and Dangerous," and any person, firm, company or corporation, violating this section or any part thereof, shall be liable to a penalty of five hundred dollars for each and every offense. They shall also be liable for injury or damages as provided in Section 6 of this Act.

#### RECOVERY OF PENALTIES.

Sec. 8. (As amended by Act 199, 1918). Be it further enacted, etc., The District Attorney shall bring suit, in the name of the State of Louisiana, in any court of competent jurisdiction, against the offenders for the recovery of the penalties incurred under this act, and shall have assessed, as a penalty against such offenders, in the judgment decreeing the penalty, ten per cent thereof as compensation, which shall be collected as costs. All penalties or fines collected under the provisions of this act shall be paid into the treasury of the Board of Health, and shall become part of its funds.

#### INJUNCTION TO PREVENT VIOLATIONS.

Sec. 9. (As amended by Act 199, 1918). Be it further enacted, etc., That in order to more effectually carry out the provisions of this act and to prevent violations of Sections 5, 6, and 7, the district attorney may at the time of filing any suit, or during its progress, obtain a writ of injunction preventing and restraining the defendant from such action from doing or suffering to be done any of the act or acts of which such action was brought, and said district attorney and Board of Health shall be dispensed from furnishing the bond required by law for issuing such writs. The Attorney General may, upon his own motion, become counsel in any such case, and supervise the same.

#### REPEALING CLAUSE.

Sec. 10. Be it further enacted, etc., That all laws or parts of laws in conflict with this Act, or inconsistent therewith, are hereby repealed, and that this Act shall take effect from and after its passage.

Note. The act does not violate Arts. 114 and 118 of the Constitution of the State, or the provisions of the Constitution of the United States giving Congress the power to regulate commerce or forbidding a State to impose an export duty. The act is an inspection law, and the State may as a necessary incident provide that a fee be charged for the service. *Clark vs. Board of Health*, 30 A. 1351. The right to pass inspection laws is not granted to Congress, and consequently remains subject to State legislation, as an incident of the police power, subject to the paramount right of Congress to regulate commerce with foreign nations and between the States. *State vs. Overby*, 142 L. 21.

## **INSPECTION OF GAS, ELECTRIC LIGHT AND WATER METERS.**

**Act 297 of 1910, p. 500.**

### **TITLE.**

AN ACT requiring gas, electric light and water meters to be open for inspection; prohibiting the charging for more gas, electricity and water than the meter indicates has been used by consumers, provided the minimum charge contracted for with municipalities shall not be affected, prohibiting the use of false gas, electric light and water meters, or a false system of registering, requiring the sellers of gas, water and electricity that require cash security before installing their service to pay the legal rate of interest upon said deposits, and providing penalties for the violation of this Act, and empowering municipalities to appoint inspectors to carry out the purposes of this Act, and the further power to provide for the inspection of meters and the expense of same. The provisions of this Act shall not apply to electric light or power, water or gas plants owned by any municipality or political subdivision of this State.

### **METERS TO BE FURNISHED CONSUMERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every person, firm, association or corporation now engaged or hereafter engaging in the business of furnishing natural or artificial gas for heating, illuminating or other purposes, electricity for illuminating or for power or other purposes, water for domestic use or power or other purposes, and paid for by patrons by meter measure, shall furnish to each and every patron a meter properly tested and in good order, and shall arrange such meters so that the patron can, at any time, see the meter dial and ascertain how much gas, electricity or water is being consumed, and for what amount such patron is liable therefor.

### **MAXIMUM CHARGE FOR COMMODITY.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any person, firm, association or corporation engaged in furnishing gas, water or electricity to consumers, to be paid for by meter measure, to charge or receive, from any patron or consumer, pay for more gas, electricity or water than the meter furnished by such person, firm, association or corporation shall indicate has been used by such consumer at the time to which payment is made and received, provided the minimum charge contracted for with the municipalities shall not be affected.

### **FURNISHING DECEPTIVE METERS, ETC.**

Sec. 3. Be it further enacted, etc., That it shall be unlawful, for any person, firm, association or corporation who knowingly constructs or uses or furnishes to consumers of gas, electricity or water, to be used, any false meter or any false system for measuring and registering the quantity of gas, electricity or water consumed by any person who is connected with the service of said gas, electric or water company.

Note. An examination of the Act (Sec. 3) as it is printed in the official edition, will show that some part of it is meaningless. The Section 3, as printed here is from the Act as it is in the archives of the Secretary of State.

### **INTEREST ON DEPOSIT OF CASH SECURITY FOR GAS, ETC.**

Sec. 4. Be it further enacted, etc., That whenever any person, firm, association or corporation now engaged or hereafter engaged in furnishing gas, electricity or water, shall demand of its patrons a cash security to protect the said furnisher of gas, electricity or water from loss by reason of extending to such patrons gas, electric or water service, such furnisher shall pay to the said patron, interest at the rate of five per cent per annum upon the amount of the said deposit so long as it continues to hold or exact the same. The balance of deposit, together with earned interest, shall be returned to the depositor, on demand whenever the service is discon-

tinued, and any refusal or neglect to so return the balance shall subject the furnisher of gas, water or electricity to the penalty of paying the consumer ten per cent per annum interest upon said deposit so retained after demand.

#### PENALTY FOR VIOLATION.

Sec. 5. Be it further enacted, etc., That any person, firm, association or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars and not more than two hundred dollars for each offense.

#### AUTHORITY OF MUNICIPALITIES.

Sec. 6. Be it further enacted, etc., That the several municipalities of this State are given the power and authority to appoint inspectors to carry out the intent and purposes of this Act, and further granting and giving to the several municipalities of this State the power and authority to pass ordinances providing for the inspection of gas, water, electric light and power meters, and fixing the expense of same.

#### ACT NOT APPLICABLE TO PUBLIC PLANTS.

Sec. 7. Be it further enacted, etc., That this Act shall not apply to water, gas or electric power plants owned by any municipality or political subdivision of the State.

*Note. The monthly charge of twenty-five cents for meter service, made by a corporation supplying electric current to meter customers, does not violate the provisions of the act. In re State ex rel. Lusenberg, 139 L. 891.*

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## INSURANCE.

### ORGANIZATION AND OPERATION OF STATE AND FOREIGN INSURANCE COMPANIES.

Act 105 of 1898, p. 132.

#### TITLE.

AN ACT in relation to the organization and operation of State insurance companies, and of insurance companies organized under the laws of other States or countries; to regulate fire insurance and insurance by lightning or tempest on land; marine insurance including inland transportation or navigation: Insurance guaranteeing the fidelity of persons in position of trust to act as surety on official bonds; To regulate the insurance loss or damage to property or life caused by the explosion of steam boilers: Accident insurance; breakage of plate glass, local or in transit: Insurance against loss by water to any goods arising from the leakage or breakage of water pipes or sprinklers. Relative to elevators, bicycles and vehicles: To regulate credit insurance or guaranty: Life Insurance: To regulate generally fire, river, inland navigation or transportation or marine insurance: How local mutual and stock companies may be formed, the provisions to be included in their charter, amount of capital stock required: Board of Directors: how organized, and duties of the same: officers, how elected, and their duties; capital, how invested; restrictions upon business to be carried on, how dividends are to be declared, how impairment of capital stock may be remedied; duties of Secretary of State; reductions of capital and regulations providing for the examination of companies by the Secretary of State, and penalties for the violation thereof, and the regulations of insurance companies. Relative to companies organized under the laws of other States; to appoint Secretary of State attorney to accept service of process: To deposit with Secretary of State copy of

charter: Deposit required of companies organized under the laws of foreign countries: providing for the filing of annual statements with Secretary of State: Relative to compliance with the laws of this State: authorization and penalty for acting as unauthorized agent: prohibiting payment of brokerage, commission or rebate to any but authorized agent; authorizing revocation of certificate for cause: Providing that business must be written by resident agents in this State: Authorizing Secretary of State to investigate all violations of law and penalty for such violations: Reciprocal provisions: Advertisements, how made. Return premium on unconsumed portion of policy after payment of loss. Authorizing Secretary of State to make inquiry as he may deem necessary, and to examine into financial condition of the companies: the impairment of capital: limit of liability to be assumed on any one risk: penalty for making false oath, and providing that all fines recovered shall be paid to the Charity Hospital: Contracts with unauthorized companies null and void: How reserve required by fire insurance companies shall be computed. Tax collectors to require certificate from Secretary of State for the purpose of fixing the license. Providing for the adoption of the New York standard form of fire insurance policy. Organization and operations of local insurance companies: Insurance and re-insurance in unauthorized companies; how regulated; and to regulate generally the business of insurance in this State.

**NUMBER NECESSARY FOR ORGANIZATION.**

Section 1. (As amended by Act 50, 1902, p. 70). That it shall be lawful for any number of persons, not less than fifteen, citizens of the United States and residents of this State, on compliance with the provisions following, to form insurance companies on the stock plan, for any of the following purposes, to-wit:

- First—To insure against loss or damage to property by fire, lightning, tempest on land.
- Second—To insure vessels, freights, goods, money, effects and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance, including risks of inland navigation and transportation.
- Third—To guarantee the fidelity of persons in position of trust, private or public, and to act as surety on official bonds and for performance of other obligations.
- Fourth—To insure damage against loss or damage to property of the assured, or loss or damage to the life, person or property of another, for which the assured is liable, caused by the explosion of steam boilers.
- Fifth—To insure any person against sickness, bodily injury or death by accident, or any person, firm or corporation against loss or damage on account of the bodily injury or death by accident to any person for which loss or damage said person, firm or corporation is responsible.
- Sixth—To insure against the breakage of plate glass, local or in transit.
- Seventh—To insure against loss or damage by water to any goods or premises arising from the leakage or breakage of sprinklers and water pipes.
- Eighth—To insure against loss or damage to property arising from accidents to elevators, bicycles and vehicles.
- Ninth—To carry on the business commonly known as credit insurance or guaranty, either by agreeing to purchase uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted to the assured to meet their liabilities.
- Tenth—To carry on the business of Life Insurance.
- Eleventh—To insure against burglary or theft, or both, or attempts thereof.

**WHAT CHARTER MUST CONTAIN.**

Sec. 2. (As amended by Act 266, 1916, p. 553). Be it further enacted,

etc., Every charter of companies incorporated under this Act shall contain:

First—The name and title of the corporation and the place chosen for its domicile.

Second—That they are formed for the purpose of transacting insurance business, stating the nature and kind thereof.

Third—Designating the officer upon whom citation shall be served.

Fourth—The amount of capital stock, the number of shares, the amount of each share, the time when and the manner in which payment on stock subscribed shall be made.

Fifth—The designation of general officers, the number of directors or trustees, and their names, and the mode in which the elections of directors or managers shall be conducted.

Sixth—The mode of liquidation at the termination of the charter.

Seventh—Such other provisions or articles, not inconsistent with laws, as they may deem proper to insert therein for the interest of such corporations or the accomplishment of the purpose thereof, or to define the manner in which the corporate powers granted in this act shall be exercised: and shall thereupon publish the said charter or articles of organization for thirty consecutive days in the official journal.

*Note.* This section has not been repealed by subsequent legislation and is still in force and effect, and Insurance Companies must comply with its provisions. *State ex rel. Lumbermen's Acc. Co. vs. Michel*, 124 L. 558 (decided before the amendment of 1916).

#### **OFFICIAL JOURNAL.**

**Sec. 2.** (Act 266, 1916, p. 554). Be it further enacted by the General Assembly of the State of Louisiana, That the term "official journal," as used in this Act, is hereby defined to mean the official journal of the parish in which any company incorporated under the provisions of this Act is domiciled.

#### **WHAT IS REPEALED.**

**Sec. 3.** (Act 266, 1916, p. 554). Be it further enacted by the General Assembly of the State of Louisiana, That only such parts of laws as are inconsistent or in conflict with the provisions of this Act be and the same are hereby repealed.

#### **BUSINESS WHICH COMPANIES MAY TRANSACT.**

**Sec. 3.** (As amended by Act 50, 1902, p. 71). That no corporation so formed shall transact any other business than that specified in its charter or articles of organization.

Companies to insure plate glass upon the stock plan may organize with a cash paid up capital of not less than one hundred thousand dollars (\$100,000.00).

Companies to insure marine and river risks upon the stock plan, shall have a cash paid up capital of not less than one hundred thousand dollars (\$100,000.00).

Companies formed for the transaction upon the stock plan, of fire, fidelity, accident, steam boiler and life insurance, or for the transaction of the business authorized under the seventh, eighth and ninth and eleventh paragraphs of Section 1 of this Act, shall have a paid up cash capital of not less than one hundred thousand dollars (\$100,000.00).

That the capital stock of all such corporations shall be subscribed and paid for in cash, within twelve months from the date of its charter, and no certificates of stock shall be issued until paid for in full, and no policies of insurance shall be issued by said corporation, or business done by them, until thirty-five per cent of the entire capital shall be paid in cash; and, if the whole of said capital stock shall not be paid for in twelve months from the date of the charter, it shall be the duty of the Secretary of State to immediately revoke the license granted or issued to any such corporation to do business in this State and publish notice of such revocation as required by law, the charter of the offending corporation shall be forfeited, and all

contracts entered into after revocation of such license shall be null and void.

Any company which shall combine two or more of the subjects specified in Section 1 of this Act, shall have a paid up cash capital equal to the joint sum of the capital required for each subject.

Note. See note to Sec. 7 infra.

A Fire Insurance Company under this section has no standing to attack as unconstitutional the act under which it was organized. A company organized with a capital stock of \$100,000 has not complied with the law, when one-fourth of the subscriptions are represented by notes of the subscribers. State ex rel People's Fire Ins. Co vs. Michel, 125 L. 55. See also State ex rel. Guion vs. People's, etc., Ins. Co., 126 L. 548.

#### BOARD OF DIRECTORS.

Sec. 4. Be it further enacted, etc., (a), The Board of Directors of each insurance company or corporation, organized under this Act shall consist of not less than five (5) members, or more than twenty (20) chosen by ballot from the stockholders, who shall hold office for one (1) year, or for the term provided in its charter, and until their successors are qualified.

(b). In the choice of directors, and at all meetings of the company, each stockholder shall be entitled to one (1) vote for each share that he holds not in excess of one-tenth (1-10) of the capital.

(c). Proxies may be authorized by written or printed power of attorney.

(d). The directors, before they are qualified to act, shall file with the secretary of the company, a written acceptance of the trust. Not less than four (4) shall constitute a quorum, and a majority of those in attendance may transact business.

(e). Vacancies in any office in the board may be filled by the directors or the stockholders, as the by-laws may provide.

(f). They may call special meetings of the stockholders whenever they may deem proper, and shall call such meetings on the written application of the owners of one-fourth (1-4) parts of the capital stock. No stockholder who does not hold in his own name at least ten (10) shares of the capital stock shall be eligible to membership upon the Board of Directors.

(g). The Board of Directors shall meet at least once a month.

(h). The Board of Directors shall annually choose by ballot a president who shall be a member of the board, a vice-president, a secretary, and such other officers as the by-laws may provide.

(i). The president, vice-president and secretary, shall annually be sworn, and their oath entered on record in the company's books. The president or in his absence the vice-president, shall preside at all meetings of the directors, and of the stockholders. In the absence of the vice-president, a president pro tempore, may be chosen.

(j). The secretary shall keep a record of the votes and proceedings of all meetings of the directors and stockholders; a list of the stockholders and the number of shares standing in the name of each; a record of all transfers of shares, and of all policies issued and all authorized assignments, cancellations, and transfers thereof. He shall keep such other books and perform such other duties, as the president and Board of Directors may require. The records as kept shall be evidence of the transactions to which they relate. For making any willfully false record, the secretary shall be deemed guilty of perjury.

(k). No person not a citizen of the United States shall be eligible either to membership on the Board of Directors, or for any official position in the company.

#### CAPITAL STOCK.

Sec. 5. (As amended by Act. 50, 1902, p. 72). The capital stock of any insurance company hereafter organized under the laws of this State, shall be subscribed and paid for in cash, within twelve months from the date of its charter, and no certificates of stock shall be issued until paid for in full, and no policies of insurance shall be issued by said corporation, or business done by them, until thirty-five per cent of the entire capital shall

be paid for in cash, under the penalty provided for in Section 3 of Article 1 of this Act. A majority of the directors shall certify on oath that the money has been paid by the stockholders for their respective shares and the same is held as the capital of the company invested, or to be invested, as required by this section. Before issuing any policy or making any contract of insurance, the company shall file with the Secretary of State a certified copy of its charter and a statement verified by the oath of its president, and its secretary, showing that said company is duly organized.

(b). Upon receiving such statement the Secretary of State shall examine such company, and if he finds that it has complied with the terms of its charter and the laws of the State, he shall issue certificate authorizing such company to issue policies and make contracts of insurance.

(c). For such examination and service the Secretary of State shall be entitled to a fee of twenty-five dollars (\$25.00).

(d). The capital of insurance companies organized under the laws of this State shall be invested only as follows:

First—In bonds of the United States, or of the State of Louisiana.

Second—In the legally authorized bonds for municipal purposes of any city in the State of Louisiana of more than five thousand inhabitants.

Third—In the legally authorized bonds of any levee or other board in the State of Louisiana.

Fourth—In the stock of any banking or other corporation located in the State of Louisiana, and organized under the laws of this State. Provided, that such stock shall at time of purchase command a premium in open market.

Fifth—In first mortgages of real estate located in this State; provided, that the value of such real estate shall be at least double the mortgage resting thereon, and held by the company.

Sixth—In real estate subject to the restrictions specified in Section 7, of this Act. But no insurance company shall together own, or hold in pledge, more than one-fourth (1-4) of the capital stock of any one corporation, nor shall it lend more than forty per cent (40%) of the sum of its capital on mortgages of real estate, nor more than five per centum of the sum of its capital in one mortgage.

Note. See note to Section 7 infra.

#### **COMPANIES MUST NOT DEAL IN MERCHANTISE.**

Sec. 6. Be it further enacted, etc., No insurance company organized under the laws of this State shall deal or trade in buying or selling goods, wares, or merchandise, except articles insured by it on which losses are claimed and except in replacing, rebuilding or repairing insured property, as provided in its policies, nor discount commercial, or other than first mortgage paper, nor engage in any banking business whatsoever. Every such company may purchase, hold and convey real property only for the following purposes, and in the following manner:

First—Such as may be requisite for its convenient accommodation in the transaction of its business; provided, that the total value of same shall not be in excess of twenty-five per cent. (25%) of its capital and net surplus.

Second—Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due.

Third—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth—Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained, or made for such debts.

All such real property specified in subdivisions second, third and fourth of this section, as it may acquire, shall be sold and disposed of within five (5) years, after it shall have acquired title to the same, and it shall not hold such property for a longer period unless it shall procure a certificate from the Secretary of State after showing that its interests will suffer materially by the forced sale thereof, in which event the time for the same may be extended to such time as the Secretary of State shall direct in such certificate. In case of the marine or inland marine insurance company, it may also acquire and hold such property within the State, or upon,

or in its waters, which is, or may be adapted to, or available for use in protecting, storing and caring for such vessels and appliances as are, or may be employed for assisting the same, or which is, or may be adapted to, or available for other purposes, or incident to marine salvage service, and may manage and dispose of such real property in the same manner and with like effect as if it were an incorporated owner thereof.

#### **NO DIVIDEND UNTIL STOCK IS FULLY PAID.**

**Sec. 7.** (As amended by Act 50, 1902, p. 73). No insurance company organized under the laws of the State of Louisiana shall declare and pay any dividend to its stockholders unless its capital is fully paid in cash and is unimpaired and has a surplus beyond its capital stock and other liabilities equal to fifteen per cent of its capital stock.

**Note.** Note the absence of an enacting clause to Sections 1, 3, 5 and 7. Most cases hold that a statute without an enacting clause is void. Montgomery, etc., Co. vs. Montgomery Traction Co., 140 F. R. 988; People vs. Dittenthaler, 44 L. R. A. 164; State vs. Patterson, 4 S. E. 360 (1 Wash. T. 115); Sydberg vs. Security, etc., Ass., 75 N. W. 1116; Burritt vs. State Central Com., 11 N. E. 180; but see City, etc., vs. Kelly, 52 Mo. 424 (14 Am. Rep. 427). Absence of part of the clause, or the use of words tantamount to those prescribed will however save the section. McPherson vs. Leonard, 29 Md. 377; Swan vs. Buck, 40 Miss. 268; State vs. Rogers, 21 Am. Rep. 738; State vs. Fore, 181 La. 813 (60 S. R. 255). Sections 1, 3, 5, 7 of Act 105, 1898, were amended by Act 144 of 1900 and, as shown, again amended by Act 50, 1902. Section 1 of this latter act reads: "Be it enacted by the General Assembly of the State of Louisiana, That Sections 1, 3, 5 and 7 \* \* \* be amended and re-enacted so as to read as follows, towit," then follow the sections as amended without an enacting clause for each amended section.

#### **IMPAIRMENT OF CAPITAL.**

**Sec. 8.** Be it further enacted, etc., If it appears to the Secretary of State from any statement made to him or from an examination made by him or by any examiner appointed by him, that the capital stock of any insurance company organized under the laws of this State is impaired to the extent of twenty-five per cent (25%) thereof, or that its assets are insufficient to justify its continuance in business, he shall determine the amount of such impairment or deficiency and issue a written requisition to the corporation to require its stockholders to make good the amount of the impairment, or deficiency within such period as he may designate, not more than ninety (90) days from the service of such requisition.

If the amount of any such impairment or deficiency shall not be made good within the time specified in such requisition, the corporation shall be deemed insolvent, and may be proceeded against as an insolvent corporation by the Secretary of State.

**Note.** On the application of the Secretary of State, the court appointed a Receiver for the company and enjoined it from further proceeding with the conduct of its business. A day after such appointment, one of the policy holders of the company sustained a loss by fire. Held, that the insured is not entitled to recover the amount of his loss; he is merely a creditor of the corporation to the extent of the unearned portion of the premium paid by him. Michel vs. Southern Ins. Co., 128 L. 562.

#### **MAKING UP DEFICIENCY BY STOCKHOLDERS.**

**Section 9.** Be it further enacted, etc., Upon the receipt of the requisition of the Secretary of State, specified in the last preceding section, the directors of the corporation shall forthwith call upon the stockholders ratably for such amount as will make up such impairment or deficiency. If any stockholder refuses or neglects to pay the amount called for after notice, personally given, or by advertisement, in such time and manner as the Secretary of State shall approve, the directors shall require the return of the certificate, or certificates of stock held by the stockholders, and in lieu thereof issue to him new certificates for such number of shares as he may be entitled to, in proportion that the ascertained value of the assets of the corporation as determined by the Secretary of State bears to its original capital, the corporation paying for any fractional parts of shares.

The directors may create new stock and issue certificates therefor, and dispose of the same at not less than par for an amount sufficient to make up the original capital of the corporation.

For any losses accruing upon risks taken after the expiration of the period limited by the Secretary of State, in any such requisition, and before

such impairment or deficiency shall have been made up, the directors of the corporation shall be jointly, severally and individually liable to the extent thereof.

Any transfer of stock made during the pendency of any such examination or after any such report shall have been made, and before any impairment or deficiency specified, in any such requisition shall be made good, shall not release the person, making the transfer from his liability for losses accrued previous to such transfer.

#### **WHEN REDUCTION IN CAPITAL PERMITTED TO REPAIR DEFICIENCY**

Sec. 10. Be it further enacted, etc., Should the sum of impaired capital be equal to, or in excess, of the minimum amount of original capital as required under Section 2, of this act, the Secretary of State, in lieu of demanding that the impairment be made good, may permit the reduction of the capital in the sum of the impairment. In that event, it shall be the duty of the Board of Directors to call in the old certificates of stock, and issue new certificates for the number of shares which each stockholder is entitled to in the proportion that the reduced capital bears to the original capital. Provided, that any insurance company shall have the right when its assets are in excess of its capital twenty-five per cent (25%) or more, may reduce its capital to a sum which shall not be less than the sum required under Section 1, of this article. Provided, however, that the assent of three-fourths of the stockholders shall be secured either by personal vote, or by proxy to such reduction.

Upon the completion of such reduction of capital, the company shall submit to the Secretary of State a certificate setting forth the proceedings thereof, and the amount of such reduction, and the assets and liabilities of the company signed and sworn to by its president and secretary and the majority of the Board of Directors. The Secretary of State shall examine the facts in the case, and if the same conform to the law he shall issue a certificate to that effect which shall be published for thirty (30) days in the official journal. For such certificate the Secretary of State shall be entitled to a fee of ten dollars (\$10.00).

#### **HOW CAPITAL MAY BE INCREASED.**

Sec. 11. Be it further enacted, etc., Any insurance company organized under the laws of this State, may increase the amount of its capital stock upon a vote of two-thirds (2-3) of its Board of Directors ratified by a vote of two-thirds of its stockholders, representing not less than two-thirds of its capital stock, at a meeting called for that purpose after a notice published for thirty (30) consecutive days in the official journal, and a notice mailed to each stockholder at least thirty (30) days prior to the date of such meeting.

It shall not be lawful for any insurance company to increase its capital stock by the distribution of any portion of its net surplus.

Within thirty (30) days after such meeting of stockholders at which such increase shall be voted, the new subscriptions must be paid in cash and new certificates of stock issued. Upon the completion of the proceedings, the company shall submit to the Secretary of State a certificate setting forth the amount of the increase, and the facts of the transaction, signed and sworn to by its President, Secretary and a majority of its Directors.

If the Secretary of State finds that the facts conform to the law, he shall issue a certificate to that effect.

#### **ALL COMPANIES BROUGHT UNDER ACT.**

Sec. 12. Be it further enacted, etc., Any insurance company heretofore incorporated, or the charter of which has been extended under the provisions of any general or special law of the State, is hereby brought under all the provisions of this act, except that its capital may continue of the amount named in its charter during the existing term thereof, provided, however, that it shall have had at least twenty-five thousand dollars (\$25,000.00) of unimpaired capital actually paid up in cash, unless it extends its business to other kinds of insurance not included in its original charter. In such event the capital must be increased to the sum required under Section 3, of this Act.

**BUSINESS WHICH COMPANIES MAY TRANSACT.**

Sec. 13. Be it further enacted, etc., All insurance companies authorized to transact fire insurance business in this State, may in addition to the business which they are now authorized by law to do, insure sprinklers, pumps and other apparatus for extinguishing fires, against damage, loss or injury resulting from accidental causes other than fire; and may also insure any property which such companies are authorized to insure against loss or damage by fire, against damage, loss or injury by water or otherwise, resulting from the accidental breaking of, or injury to such sprinklers, pumps or other apparatus, arising from causes other than fire. Contracts of insurance of the kind provided for in this paragraph shall not be incorporated in any contract of insurance against loss or damage by fire, but shall be contained in separate and distinct policies.

**INVESTIGATION OF COMPANIES AFFAIRS.**

Sec. 14. Be it further enacted, etc., As often as once in every three years or oftener, if in the judgment of the Secretary of State, there should arise a necessity, the Secretary of State may personally or by his assistant, or by one or more competent persons appointed by him, and who are not officers of, or connected with, or interested in any insurance corporation doing business in this State other than as policyholders, visit each insurance company organized under the laws of this State, and thoroughly inspect and examine its affairs, especially as to its financial condition and ability to fulfill its obligations, and whether it has complied with the laws.

He may also make an examination of any such company whenever he deems it prudent to do so upon the request of five or more of its stockholders, creditors, policyholders or persons peculiarly interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor, that such company is in an unsound condition.

For the purposes aforesaid, the Secretary of State or his assistant, or the person or persons employed as aforesaid, making the examination, shall have free access to all the books and papers of an insurance company that relate to its business, and to the books and papers kept by any of its agents and may summon and qualify as witnesses, under oath, and examine the directors, officers, agents and trustees of any such company, and any other person or persons, in relation to its affairs, transactions and conditions.

If, after such an examination, he is of the opinion that the company is insolvent, or has exceeded its powers, or that its condition is such as to render its further proceedings dangerous, he shall at once call upon the Board of Directors to take such steps as may be necessary to restore the company to a solvent condition.

Should the Board of Directors, within the time specified by the Secretary of State, fail to comply with such demand, it shall be the duty of the Secretary of State to apply to the District Court, or to any one of the Judges thereof, should the court be in vacation, for an injunction, without bond, restraining the company, in whole or in part, from further proceeding with its business. Such court may, in its discretion, issue the injunction forthwith, or upon notice and hearing thereon, and after a full hearing of the matter, may dissolve or modify such injunction, or make it perpetual, and make all orders and decrees needful in the premises, and may appoint an agent or receiver to take possession of the property and effects of the company, to give bond for such sum as the court may fix, and to settle its affairs subject to such rule and orders as the court may from time to time prescribe, according to the course of proceedings in equity.

Note. See note to Sec 8.

**INVESTMENTS WHICH ARE NOT ALLOWED.**

Sec. 15. Be it further enacted, etc., (a). The directors or other officers making or authorizing an investment or loan in violation of section 5, of this Act, shall be personally liable to the stockholders for any loss occasioned thereby.

(b). If a company is under liability for losses equal to its net assets and the president and directors knowing it, make or assent to further insurance, they shall be personally liable for any loss under such insurance

(c). A fine of one thousand dollars (\$1,000) shall be imposed for any violation of Section 7, of this Act.

(d). Every person or corporation violating any provisions of this Act, for which no specific penalty is provided, shall be fined not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300).

(e). All fines collected for violation of any provision of this Act, shall be collected by civil suit and process in any court of competent jurisdiction, and paid into the treasury of the Charity Hospital of the State.

#### MUTUAL COMPANIES.

Sec. 16. Be it further enacted, etc., Insurance companies may be formed on the mutual plan for the transaction of any one of the various kinds of insurance as specified in section 1, of Article 1, of this act, except as to the requirements relating to the capital stock, shall conform to all of the other provisions of this act governing companies organized upon the stock plan.

Every mutual company organized upon the mutual plan, shall exhibit to the Secretary of State satisfactory evidence that it has entered into a bona fide agreement with a number of persons for insurance, the premiums on which insurance shall amount to not less than twenty-five thousand dollars, (\$25,000), of which not less than ten thousand dollars (\$10,000) shall have been paid in cash, and notes of solvent parties secured by ample collaterals shall have been received for the remainder.

No company organized on the mutual plan shall transact any more than one kind of business.

Note. Sec. 3, Act 65 of 1906 (printed at p. 949), after the word "except" is inconsistent with and contrary to the section, and Industrial Life Insurance Companies need comply only with the latter act where its provisions are inconsistent with those of the earlier. The deposit of \$2,000 in State bonds will entitle an Industrial Life Insurance Company to carry on its business. State ex rel. Unity Industrial L. & I. Ben. Ass. vs. Michel, Secty. of State, 121 L. 350.

### ARTICLE II.

#### INSURANCE COMPANIES ORGANIZED UNDER THE LAWS OF OTHER STATES OR COUNTRIES; CONDITIONS OF ADMISSION.

##### SERVICE OF PROCESS ON FOREIGN COMPANIES.

Section 1. Be it further enacted, etc., That no Insurance company, corporation, association or society organized under the laws of any State in the United States, or any foreign country shall directly or indirectly issue policies, take risks or transact business in this State, until it shall have first appointed in writing the Secretary of State of this State to be the true and lawful attorney of such company, corporation, association or society, in and for this State upon whom all lawful process in any action or proceeding against the company, corporation, association or society may be served with the same effect as if the company, corporation, association or society existed in this State. Said power of attorney shall stipulate and agree on the part of the company, corporation, association or society that any lawful process against the same, which is served on said attorney shall be of the same legal force and validity as if served on the company, corporation, association or society, and that the authority shall continue in force so long as any policy, or other liability remains outstanding against the company, corporation, association or society in this State. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the Secretary of State and copies certified by him shall be deemed sufficient evidence. Service upon such attorney shall be deemed sufficient service upon the principal.

Whenever lawful process against a company, corporation, association or society shall be served upon the Secretary of State he shall forthwith forward a copy of the process served on him by registered mail, postpaid, and directed to the Secretary or manager of the company.

Provided the provisions of this section shall not be construed to interfere with the rights to sue insurance companies at the place of loss, as now provided by law.

Provided, That no judgment by default shall be entered against any company, corporation, association or society if it can be shown to the satisfac-

tion of the court that the Secretary of State has neglected or failed to forward copy of process at the time said service was made upon him.

Whenever service of process on an insurance company may be made by law on the Secretary of State, he may, from time to time, designate some person in his office upon whom, in his absence, service of such process may be made; and such service shall be of the same force and effect as though made on the Secretary personally.

Note. In a suit to recover on a policy of life insurance, the place of "loss" is where the assured resided and died. The insured is properly sued there. *Lesseps vs. Fidelity Mutual Life Ins. Co.*, 120 L. 614.

#### **REQUIREMENTS FOR ADMISSION OF FOREIGN COMPANIES.**

Sec. 2. Be it further enacted, etc., No insurance company organized under the laws of any other State in the United States, or of any foreign government, shall be admitted and authorized to do business in this State until:

First—It shall deposit with the Secretary of State a certified copy of its charter, articles of association or deed of settlement, and statement of its financial condition and business in such form and detail as he may require, signed and sworn to by its president and secretary or other proper officer.

Second—It shall satisfy the Secretary of State that it is fully and legally organized under the laws of its State or government to do the business it proposes to transact in this State; that it has, if a stock company, a fully paid up and unimpaired capital, exclusive of stockholders, obligations of any description, of an amount not less than is required of similar companies formed under the provisions of Article 1, of this Act, and, if a mutual company that it has net cash assets equal to the capital required of like companies organized in this State, and that such capital in the case of stock companies, and such net assets in the case of mutual companies are well invested and immediately available for the payment of losses in this State, and that it insures on any single hazard a sum no larger than one-tenth (1-10) of its capital an net surplus.

Third—It shall appoint as its agent or agents in this State some resident or residents thereof who are citizens of the United States.

Fourth—It shall obtain from the Secretary of State a certificate that it has complied with the laws of this State and is authorized to make contracts of insurance.

#### **DEPOSIT BY FOREIGN COMPANIES.**

Sec. 3. Be it further enacted, etc., A foreign company, if incorporated or associated under the laws of any government or State other than the United States shall not be admitted to this State, until, besides complying with the other conditions of this Act, it has made a deposit with the Treasurer of this State, or with the financial officer of some other State of the United States, wherein such company has been duly authorized to do business, of a sum of not less than two hundred thousand dollars (\$200,000.00). Such deposit must be in exclusive trust for the benefit and security of all the company's policy holders and creditors in the United States, and such deposit shall be deemed for all purposes of the insurance laws of this State the capital of the company.

### **ARTICLE III.**

#### **GENERAL PROVISIONS.**

Section 1. Be it further enacted, etc., Every Insurance company other than life organized under the laws of this State, or of any other State of the United States, or of any foreign government and doing business in this State shall, prior to the 1st of March in each year render to the Secretary of State a report, signed and sworn to by its president and secretary, or other proper officer, of its conditions on the 31st day of December next preceding, in the following form, namely:

First—The amount of its capital stock.

Second—Its assets, specifying, (a) the assessed value of its real estate; (b) The amount of its cash on hand and in bank, specifying where it is de-

posited; (c) The amount of cash in the hands of agents and in course of transmission; (d) The amount of loans secured by first mortgages on which there shall be less than one year's interest due; (e) The amount of like loans with one year's interest or more due thereon; (f) The amount due on judgments; (g) The amount of its stock and bonds, with the description of amount and number of shares and the par and market value of each; (h) The amount of stocks and bonds held as collateral security for loans, with the amount loaned on each and the par and market value thereof; (i) The amount of interest accrued and unpaid; (j) The amount of assessments on stock or premium notes paid or unpaid; (k) The amount of premium notes on hand on which policies are issued.

Third—Its liabilities, specifying:

(a) The amount of losses due and unpaid; (b) The amount of unpaid losses not due; (c) The amount of claims resisted by the company; (d) The amount of losses incurred during the year including those claimed and not yet due; and those reported to the company upon which no action has been taken; (e) The amount of dividends due and unpaid; (f) The amount of dividends, either cash or script, not yet payable; (g) The amount of money borrowed and secured given for the payment thereof; (h) The amount required to reinsure all risks in force; (i) The amount of all other claims against it.

Fourth—Its income during the preceding year specifying:

(a) The amount of cash premium received; (b) The amount of notes for premiums; (c) The amounts of rent and interest received; (d) The amount of income received from other sources.

Fifth—Its expenditures during the preceding years specifying: (a) The amount of losses paid, stating how much of the same accrued during that period and how much previous to the preceding statement and the amount at which such losses were estimated in such statement; (b) The amount of dividends paid; (c) The amount of expenses paid including agents' commissions; (d) The amount paid in taxes; (e) The amount of all other expenditures.

It shall also furnish any additional information and in such form as the Secretary of State may require. Companies organized under the laws of foreign governments must only report assets held by or for them within the United States.

**CERTIFICATES FROM HOME STATES.**

Sec. 2. Be it further enacted, etc., Every insurance company organized under the laws of any other State of the United States shall annually file with the Secretary of State a certificate from the proper officer of the State in which said company has its domicile, that the said company has complied with all the laws governing insurance companies, and is duly authorized to conduct the business of insurance in such State. No company not reporting to the insurance department of the State in which it has its domicile, shall be authorized to do business in this State.

Companies organized under the laws of a foreign country shall file a certificate from the proper officer of the State in which it has made a deposit, that it has complied with the laws of such State, and is duly authorized to do business therein.

**CERTIFICATES FOR AGENTS OF FOREIGN COMPANIES.**

Sec. 3. Be it further enacted, etc., No person shall act as agent of any insurance company, corporation, association, partnership, or combination of persons, incorporated, organized, associated, or combined under or by virtue of the laws of this State, or of any other State of the United States, or of any foreign country, directly or indirectly, taking risks or transacting any kind or form of insurance business in this State without procuring from the Secretary of State, under a penalty for failing to do so, of not less than one hundred, nor more than three hundred dollars, a certificate of authority stating that such company, corporation, association, partnership or combination of persons has complied with all the laws of this State relative to such companies, corporations, associations, partnerships or combinations

of persons, which certificate shall continue in force until the thirty-first day of March next, after its issue, unless revoked for cause.

**SOLICITING BUSINESS FOR UNAUTHORIZED COMPANIES.**

Sec. 4. Be it further enacted, etc., Any person who in this State solicits or procures policies or risks from, or in any insurance company, corporation, association, partnership or combination of persons, mentioned in Section 3, except such risks be upon his own property or person, or who in any manner except as provided in the aforesaid section 3, aids the transaction of business in this State by any such company, corporation, association, partnership, or combination of persons, that has neglected or refused to comply with all the laws of this State relative to such companies, corporations, associations, partnerships or combination of persons, shall be fined not less than one hundred dollars nor more than three hundred dollars or imprisoned for not less than thirty (30) days nor more than ninety (90) days.

**NO COMMISSION TO ANY BUT AUTHORIZED AGENTS.**

Sec. 5. Be it further enacted, etc., The payment of any commission, brokerage or rebate on any business to any but the authorized agent or representatives of any company legally authorized to do business in this State is expressly prohibited. Any violation of this section will be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for each separate offense.

**AGENT'S CERTIFICATES.**

Sec. 6. Be it further enacted, etc., The Secretary of State shall refuse to re-issue a certificate to any agent whose certificate was revoked for cause for the term of three (3) years from the date of the revocation of the original certificate.

**BUSINESS MUST BE TRANSACTED THROUGH LOCAL AGENTS.**

Sec. 7. (As amended by Act 144, 1900, p. 228). Be it further enacted, etc., That all fire, or fire and marine, or marine insurance companies which are legally authorized to do business in this State through legally commissioned and licensed agents resident in the State, shall not make contracts of fire or marine insurance on property within the borders of this State, or sign or countersign or deliver any policy of insurance save through the legally commissioned or licensed local agents of the company residing in this State, provided, however, that this Act shall not apply to movable property owned by railroad companies or other common carriers, domiciled, in other States and not assessed in this State.

**REQUISITES TO OBTAIN CERTIFICATES.**

Sec. 8. Be it further enacted, etc., That before any certificate or license to any fire or fire and marine insurance company is issued authorizing it to transact business in this State the Secretary of State shall require in every case, in addition to the other requirements already made and provided by law, that each and every such fire or fire and marine, or marine insurance company, shall file with him an affidavit that it has not written any insurance on property located in this State except in accordance with the provisions of Section 7, Article III, of this Act.

**EXAMINATION OF COMPANIES AT HEAD OFFICE.**

Sec. 9. Be it further enacted, etc., Whenever the Secretary of State in his judgment has good reason to believe any fire, or fire and marine, or marine insurance company has violated any of the provisions of Section 7, of Article III, of this Act, he is authorized, and it is hereby made his duty, at the expense of such company to examine at the head office, located within the United States of America all books, records and papers of such company and also any officers thereof under oath as to such violation or violations.

**PENALTIES FOR VIOLATION.**

Sec. 10. Be it further enacted, etc., That any fire or fire and marine or marine insurance company violating Section 7, of Article III, of this Act, shall forfeit the right to do business in this State for the unexpired term for which it was originally licensed and for twelve (12) months next following thereafter; and the Secretary of State shall immediately revoke the license already issued to any such company to do business in this State and public notice of such revocation as required by law and all contracts of insurance entered into after the revocation of such license, shall be null and void.

**WHAT BUSINESS PERMITTED.**

Sec. 11. Be it further enacted, etc., No insurance company organized under the laws of this State or any State of the United States, or any foreign country admitted to do business in this State shall be authorized to transact more than one class or kind of insurance therein unless it possesses unimpaired capital equal to the joint amount required under Article 1, of this act, of separate companies engaged in any one of the classes of business. In all instances the capital stock of outside companies must be equivalent to the capital stock required of like companies organizing in this State in accordance with Article 1, of this Act.

**ADOPTION OF FEES, FINES, ETC., IMPOSED BY HOME STATE.**

Sec. 12. Be it further enacted, etc., When, by the laws of any other State, any taxes, fines, penalties, licenses, deposits or other obligations or prohibitions, additional to or in excess of those imposed by the laws of this State upon companies organized under the laws of other States and their agents, or imposed on insurance companies of this State and their agents doing business in such State the same taxes, fines, penalties, licenses, deposits and other obligations or prohibitions shall be imposed upon all insurance companies of such states and their agents doing business in this State as long as such laws remain in force. Every company organized under the laws of any other State and admitted to transact business in this State and each agent of every such company, shall pay the same fees to the Secretary of State of this State as such other State may require of any similar companies incorporated by or organized under the laws of this State, or upon the agents of any such companies transacting business in such other State.

Foreign companies shall pay the same fees as are imposed in the State where the deposit is made under Section 3, of Article 2, of this Act.

**DECEPTIVE ADVERTISING.**

Sec. 13. Be it further enacted, etc., No insurance company, corporation, association, partnership, or society authorized to transact business in this State or any agent or representative thereof, shall state or represent, either by advertisement in any newspaper, magazine or periodical, or by any sign, circular, card, policy of insurance or certificate of renewal thereof, or otherwise, any funds or assets to be in its possession not actually possessed by it and available for the payment of losses and claims and held for the protection of its policy holders or creditors.

The advertising of subscribed capital not actually paid up in cash shall be construed as a violation of the provisions of this Section. For the first violation of this provision a fine of one hundred dollars shall be imposed and for the second and each subsequent offense a fine of three hundred dollars shall be imposed.

**FINANCIAL STANDING.**

Sec. 14. Be it further enacted, etc., Every advertisement, of public announcement, and every circular or card hereafter made or issued by any company, corporation or association, authorized to transact business of insurance in this State shall purport to make known the financial standing of any such company, corporation or association shall, in all particulars which it purports to give correspond with the last preceding verified statement made by said company, corporation or association to the Secre-

tary of State and shall state specifically the sum of its assets and of its liabilities.

Penalties for the violation of this Section shall be the same as those prescribed for violation of Section 13.

#### **PAYMENT OF LOSS—RETURNS OF PREMIUMS.**

Sec. 15. Be it further enacted, etc., Upon the adjustment and settlement of a loss under a policy of fire insurance, the assured shall be entitled to recover, in addition to the sum of the loss as agreed upon, the return of the premium paid under the said specific policy on the excess between the sum of the amount insured and the sum of the amount ascertained to be due, with legal interest from the date of the payment of the premiums.

#### **INQUIRIES INTO CONDITION OF COMPANIES.**

Sec. 16. Be it further enacted, etc., The Secretary of State shall make such inquiries of any insurance companies doing business in this State, or of its Secretary as he may deem necessary relative to its financial condition and management, and such inquiries shall be promptly answered, and upon the refusal of any company to furnish such information to the Secretary of State, he may suspend its license to do business in this State and employ counsel to enforce the provisions of this act, at the expense of the company, association or individual affected.

#### **SECRETARY OF STATE APPOINTER EXAMINERS.**

Sec. 17. Be it further enacted, etc., The Secretary of State shall, as often as he deems it expedient, appoint one or more competent persons, not officers, stockholders or connected with or interested in any insurance corporation doing business in this State, other than as a policy-holder as examiners to examine into the affairs of such corporation. Such examiners may examine under oath the officers and agents of any such corporation and its books with reference to its business. Every such corporation, its officers and agents, shall produce its books and all papers in its or their possession relating to their business or affairs, for the inspection or examination of such examiner whenever required, and shall facilitate such examination and aid the examiners in making the same, so far as it is in their power to do so.

Every such examiner shall make a full and true report of every examination made by him, verified by his oath, which report, so verified, shall be presumptive evidence in any action or proceedings in the name of the people against the corporation, its officers or agents, of the facts stated therein. The Secretary of State shall grant a hearing to the corporation examined before filing any such report, and may withhold any such report from public inspection for such time as he may deem proper, and may, if he deem it for the interest of the public to do so, publish any such report of the result of any such examination as contained therein, in the official journal.

In relation to the affairs of any company incorporated by, or organized under the laws of any other State of the United States, the Secretary of State may, in lieu of such examination, accept the certificate of the insurance commissioner or Superintendent of such State as to its condition.

In the case of a company organized under laws of a foreign country, the Secretary of State may accept the certificate of the proper officer in the State where such company has made the deposit required by Section 3, of Article II, of this Act.

Should any company decline to permit any examination to be made either by the Secretary of State, or by the persons duly authorized by him, it shall be his duty to at once revoke the authority of the company to do business in this State. In the case of a company organized under the laws of this State, such refusal will cause the forfeiture of its charter.

#### **IMPAIRMENT OF CAPITAL PENALTY.**

Sec. 18. Be it further enacted, etc., If it appears to the Secretary of State, from any statement, made to him, or from an examination made by him, by any examiners appointed by him, that the capital of any insurance corporation under the laws of this State, or any other State of the United

States, or of any foreign country, is impaired to the extent of twenty-five per cent thereof, or that its assets are insufficient to justify its continuance in business, he shall revoke the certificate of authority issued to such corporation, and shall cause a notice thereof to be published in the official journal, and said corporation, its agent, or agents, shall, after such notice, discontinue the issuing of any new policies.

**DIRECTORS OF FOREIGN CORPORATIONS.**

Sec. 19. Be it further enacted, etc., Any admitted company of a foreign country may appoint legal directors or trustees, but they must be citizens and residents of this State, and of the United States.

**RE-INSURANCE.**

Sec. 20. Be it further enacted, etc., Every insurance company doing business in this State may reinsure the whole or any part of any policy, obligation in any other insurance company authorized to do business in this State. The Secretary of State shall require every year from every insurance company doing business in this State, a certificate sworn to before a Commissioner of Deeds for the State of Louisiana to the effect that no part of the business written by such company, in this State has been re-insured in whole or in part by any company, corporation, association or society not authorized to do business in this State, except as hereinafter provided. This certificate shall also contain a list of all the re-insurances during the year in authorized companies, showing the name and amount effected in each company.

The Secretary of State upon the annual payment of twenty dollars (\$20.00) may issue to any person, corporation, or partnership having property in this State, a certificate of authority, subject to revocation at any time, permitting the person, corporation, or partnership named therein, to procure policies of insurance on property located in this State in companies which are not authorized to do business in this State. Whenever a person, corporation or partnership holding such certificate of authority shall procure any insurance under or by virtue of such certificate of authority, within thirty days from the date of applying for same, the said person, corporation or partnership shall report same to the Secretary of State with an affidavit setting forth that after diligent effort such person, corporation or partnership was unable to procure at current rates the full amount required to protect the property owned by such persons, corporations or partnership from the insurance companies duly authorized to transact business in this State. And that such person, corporation or partnership has placed with companies not authorized to do business in this State only the amount necessary to complete the sum of insurance required to protect the property after securing all of the insurance obtainable at current rates from companies authorized to do business in this State. Each person, corporation or partnership holding such certificate of authority shall file in January of each year a sworn statement giving the names of companies in which such outside insurance has been placed, the number, the amount, and the expiration of each policy, and the gross premium charged therefor, and he shall pay a tax upon such gross premium (less return premium of three per centum. All insurance policies issued on property located in this State by companies that have not complied with the requirements of the general insurance laws of the State shall be void except such as shall have been secured as herein set forth. Insurance companies authorized to do business in this State, may affect re-insurance in companies not authorized to do business in this State on the same terms and conditions as are set forth in this section relating to owners of property. Any person, corporation, partnership or company applying for authority under this section shall execute and deliver to the Secretary of State a bond for such amount as the Secretary of State shall fix with such securities as he shall approve of to guarantee the faithful observance of the provisions of this law.

Should any company neglect or refuse to comply with the provisions of this Section, it shall be the duty of the Secretary of State to revoke its license to do business in this State.

**LIMIT OF LIABILITY IMPOSED.**

Sec. 21. Be it further enacted, etc., No fire insurance company, organized under the laws of this State, or of any other State of the United States, or of any foreign country authorized to do business in this State shall assume a net liability upon any one risk of more than ten per cent of its paid up capital and net surplus.

**FORM OF POLICY PRESCRIBED.**

Sec. 22. (As amended by Act 255, 1914, p. 493), Be it enacted, etc., No fire insurance company shall issue fire insurance policies on property in this State other than those which shall conform to the requirements of the New York Standard Form of Fire Insurance Policy of the form now in force in the State of Louisiana, provided, there shall hereafter be inserted in, or by stamp or rider affixed upon, the standard form of fire insurance policies used in this State, after the clause which contains the conditions for a breach of which, without the consent of the insurer endorsed thereon or added thereto, the policy becomes void, a proviso as follows: Provided, where it is stipulated in this policy, that, without the consent of the insurer endorsed hereon or added hereto, the breach of a condition shall avoid the policy, it shall be held such breach does not in fact avoid the policy, but only suspends the operation of the policy during the time the breach continues.

Note. This section is not repealed by Act 135, 1900 (printed at p. 968) in so far as the form of the policy prescribed, requires the assured to make preliminary proof of loss and to furnish the insured with information concerning the character, situation and actual value of the property destroyed or damaged. *Melancon vs. Phoenix Ins. Co.*, 110 L. 324. But this law [Act 105, 1898, Sec. III, Art. 22?] in our view has been repealed by Act 135, 1900 (valued policy law, printed on p. 988). *New Orleans R. R. M. & S. Co. vs. Teutonia Ins. Co.*, 128 L. 46, 66. See *North British, etc. Co. vs. Sims*, 132 L. 411. "The limitation of actions to one year, contained in Fire Insurance Policies of the New York standard form prescribed by Sec. 22 of Act 105, 1898, is not properly a contractual limitation, but is specially prescribed by the laws of Louisiana, and is governed by the rule laid down in *R. C. C.*, Art 3518, that prescription is interrupted by citation of the defendant, even in a court without competent jurisdiction in the premises. A policy of Fire Insurance under the standard form permits occasional or incidental vacancies for less than ten days." (Syllabus.) *Tracy et al. vs. Queen City Fire Ins. Co.*, 132 L. 610. (In 128 L. 46, 66, noted above, the court declared this section had been repealed).

**WHO DEEMED INSURANCE AGENT.**

Sec. 23. Be it further enacted, etc., Any person who solicits insurance for a consideration on behalf of any insurance company, or transmits for a person other than himself an application for, or a policy of insurance to or from such company, or offers or assumes to act in the negotiation of such insurance, shall be deemed an insurance agent within the intent of this Act, should he receive from the company any compensation whatsoever, either for himself or for any other person, partnership, or corporation, and shall thereby become liable to all the duties, requisitions, liabilities and penalties to which an agent of such company is subject.

An insurance agent, who places insurance for a client with companies not represented by the agent, is not the agent of the company in which the insurance is placed, and notice by the insured to such agent to cancel the policy will not have that effect, as notice to him is not notice to the company. Sharing commissions between the agent of the company that wrote the policy and the agent of another company, will not make the latter the agent of the former company. *Morris McGraw, etc. Co. vs. German Fire Ins. Co.*, 126 L. 32.

**FALSE OATHS.**

Sec. 24. Be it further enacted, etc., Every person who shall, upon oath or affirmation legally administered to him, willfully or corruptly make false report, or testify or affirm falsely to any material fact in any manner wherein an oath or affirmation is by Act required or authorized, shall be imprisoned not less than one, nor more than three years. And every person who shall make any false entry or memorandum upon any of the books or papers of any insurance company, with intent to deceive shall be imprisoned not less than one, and not more than three years.

**PENALTIES IMPOSED FOR VIOLATIONS.**

Sec. 25. Be it further enacted, etc., Every person or corporation on violating any of the provisions of this Act for which no penalty is provided

shall be fined not less than one hundred dollars nor more than three hundred dollars.

**CONTRACTS WITH COMPANIES NOT LEGALLY ADMITTED.**

Sec. 26. Be it further enacted, etc., Contracts of Fire, Marine, Life, Accident, Casualty, Surety and all other kinds of Insurance, entered into with the residents of this State, or on property located in this State, by insurance companies of other States or countries, not legally authorized to do business in this State, in accordance with the provisions of this Act shall be null and void.

Provided, this Section shall not be so construed as to relieve any company or agent from liability for any loss incurred under any policy of insurance.

**FINES GO TO CHARITY HOSPITAL.**

Sec. 27. Be it further enacted, etc., All fines recovered for violation of the provisions of this Act, shall be paid into the Treasury of the Charity Hospital at New Orleans.

**RESERVES OF COMPANIES.**

Sec. 28. Be it further enacted, etc., The reserve required by Fire Insurance Companies to re-insure outstanding risks shall be computed in the following manner:

On policies written for one (1) year or less, and expiring in the subsequent year, one-half (1-2) of the net premium shall be reserved.

On policies written for a term of two (2) years:

First year: Three-fourth (3-4) of the net premium shall be reserved.

Second year: One-fourth (1-4) of the net premium shall be reserved.

On policies written for a term of three (3) years:

First year: Five-sixths (5-6) of the net premium shall be reserved.

Second year: One-half (1-2) of the net premium shall be reserved.

Third year: One-sixth (1-6) of the net premium shall be reserved.

On policies written for a term of four years:

First year: Seven-eights (7-8) of the net premium shall be reserved.

Second year: Five-eighths (5-8) of the net premium shall be reserved.

Third year: Three-eights (3-8) of the net premium shall be reserved.

Fourth year: One-eighth (1-8) of the net premium shall be reserved.

On policies written for a term of five years:

First year: Nine-tenths (9-10) of the net premium shall be reserved.

Second year: Seven-tenths (7-10) of the net premium shall be reserved.

Third year: One-half (1-2) of the net premium shall be reserved.

Fourth year: Three-tenths (3-10) of the net premium shall be reserved.

Fifth year: One-tenth (1-10) of the net premium shall be reserved.

**CERTIFICATES TO FOREIGN COMPANIES.**

Sec. 29. Be it further enacted, etc., All certificates of authority issued by the Secretary of State to companies or associations of this State, or to companies or associations existing under the laws of any other State or foreign government, to any agent of such company or association, shall continue in force until the thirty-first day of March inclusive, next following their issue, unless the same be sooner revoked.

No corporation, association or individual shall transact in this State any insurance business not specified in the certificate of authorization granted by the Secretary of State.

**LICENSES OF COMPANIES.**

Sec. 30. Be it further enacted, etc., The State Tax Collectors authorized to collect licenses from insurance companies, corporations, associations or societies in this State shall require from each insurance company, corporation, association or society applying for license, a certificate from the Secretary of State, showing that such company, corporation, association or society has in all respects complied with the laws of the State, and is legally authorized to be licensed, to do business in this State.

**REPEALING CLAUSE.**

Sec. 31. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be, and the same are hereby repealed.

**Note.** Citation Appearance. The Fidelity and Deposit Company of Maryland was made party defendant (with others) by service "through a duly appointed agent authorized to accept service of process." On exception to the service on the ground that "it had designated the Secretary of State," etc., it was held, that the exception was properly maintained, and a default based on the service was of no effect. Held, further, that the petition of the company for removal of the suit to the U. S. courts was an appearance which conferred jurisdiction. Thereafter it was in court, and failure to cross interrogatories, of which it had been advised, would not avail the company to oppose their introduction in evidence, besides this the company, as surety for the contractors who were certainly in court, stood in the shoes of the contractors. *Union I. & F. Co. vs. Sonnenfeld & Emmis, et al.*, 113 L. 436.

**Indemnity—Extent of Liability—Compromise.** The insurer compromised with the widow of one killed in an accident, and accepted from her a discharge for herself and as tutrix of her minor child, though she was not then qualified. Subsequently, she qualified, and as tutrix brought suit for the minor and offered to compromise the suit. The assured urged acceptance of the offer, but the insurer declined, and the tutrix recovered a sum in excess of the one for which she had been willing to settle. Held, the right to compromise was vested solely in the insurer, and when acting in good faith, he could not be held for the sum in excess of the compromise which it rejected, when the total exceeded the amount of the insurance. Held, further, that it could not plead as a deduction the first sum paid to the widow before she qualified. *N. O. & C. R. Co. vs. Maryland Casualty Co.*, 114 L. 153.

**Service of Process.** Act 41, 1894, requiring surety companies of other States and foreign countries to appoint an agent upon whom service of process may be made, and Act 105, 1898, authorizing service upon the Secretary of State, do not provide an exclusive, but an additional, mode of service—and where surety companies sign forth-coming bonds through their resident vice-president, resident secretary, local director—service of rule on the companies to hold them for those based at their local offices through these officers, is good service. *Curtis vs. Jordan*, 115 L. 918. The mandate to the Secretary of State to represent foreign companies for the purpose of service of citation continues in full force as long as any policy or other liability remains outstanding in that State. *The Fair vs. American Union Ins. Co.*, 135 L. 48.

**Taxation—Money Loaned on Policies.** Loans made by a Life Insurance Company represented by notes which mature when the policy does, are in fact merely advances against the sum which the company will owe the assured, and are thus not subject to assessment and taxation, etc. *Fidelity Mutual Life Ins. Co. vs. Fitzpatrick*, 125 L. 976; *New York Life Ins. Co. vs. Assessors*, 158 F. R. 462; affirmed 216 U. S. 517; 36 S. C. 385. A Fire Insurance Company owes but one license, based on the total gross premium received in the preceding year. The tax collector is without authority to demand a license for each kind of property insured by the company. *State ex rel. Hartford Fire Ins. Co. vs. Fitzpatrick*, 133 L. 115. Insurance Companies doing a life, accident and workmen's collective accident business are liable for the payment of licenses to the State under Sec. 8, Act 171, 1898, and if they combine other insurance business they are liable to a second license under Section 9. They do not owe license for each of the kinds of insurance, like Health, etc., Insurance. *State vs. Maryland Casualty Co.*, 133 L. 146. But see *State vs. Continental Casualty Co.*, 134 L. 906, where it was held that a company owed but one license, that the decision against the Maryland Company was caused by the admission of the company that it owed two licenses.

**[Reports Which Insurance Companies Must Make.]**

[R. S., Sec. 1874.] (As amended by Act 126, 1916, p. 284.) The officers of each insurance company incorporated by the laws of this State shall, within one month from the close or expiration of each fiscal year of the corporation, cause to be published in two or more daily newspapers published in the city of New Orleans, and for the term of at least one month, a full statement, under oath of the business of the company, which statement shall contain, first, the amount of premium received during the previous year, specifying what amount was received for life insurance, for insurance against fire, what on marine policies, and what on river policies; second, the amount of losses incurred during the year, specifying and designating what amount of losses have been incurred by the different kinds of policies as aforesaid; third, the amount of capital, stating the portion of same invested in securities, and the nature of the securities.

**[Same Subject; Penalty For Failure.]**

[R. S., Sec. 1875.] Every person acting as agent of an insurance company not incorporated by the laws of this State, and doing fire, marine or river insurance within the city of New Orleans, shall, during the month of January of each year, cause a full statement, under oath, of the business of the agency, to be published in the manner and form and for the term, as specified in the preceding section; and for the neglect or refusal so to do, shall forfeit and pay into the city treasury the sum of one thousand dollars for each and every neglect or refusal. Whenever the parent or principal office of the agency shall publish an annual statement of its affairs, the time mentioned in the first part of this section for the publication of the affairs of the agency shall be so far changed as to correspond with the annual statement of the insurance company, and shall then be published, as aforesaid, within one month from the date of the publication.

**[Origin of Fires, Inquiry, Etc.]**

[R. S., Sec. 1876.] It shall be the duty of any one of the Recorders of New Orleans, or Justices of the Peace, to whom application shall be made for that purpose, to visit any building where a fire may have happened immediately after the fire shall have been extinguished, and inquire into the origin and cause of said fire, examine all witnesses whom the owner or insurers of the property destroyed may desire to have examined under oath, and make and preserve a true and correct record or process verbal of their testimony, a copy of which record or process verbal, certified by such Recorder or Justice, shall be admitted in evidence in any civil action. The party occupying or owning the property, his agent, or any one having the property in charge at the time of the fire, shall be notified by the Recorder or Justice of the examination.

[R. S., Secs. 1877 to 1880.] See note to R. S., Secs. 742 to 744.

[R. S., Secs. 1881, 1882.] License of corporations. Obsolete. The whole subject of Licenses, etc., is now controlled by Revenues and License Acts, printed under title "Revocation."

**ELECTION OF DIRECTORS OF DOMESTIC LIFE INSURANCE COMPANIES.**

**Act 76 of 1916, p. 194.**

**TITLE.**

**AN ACT providing for the election of directors of Life Insurance Companies organized under the laws of this State upon the stock plan, and for the participation by policy holders in such elections.**

**Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any life insurance company organized under the laws of**

this State upon the stock plan may provide in its charter a plan for policy holders participating with its stockholders in the election of its directors, and that the directors thus elected shall serve for the term of one year, or for such further term as may be provided in its charter; provided that the right thus granted to policy holders may thereafter be extended, but shall not be curtailed or revoked by the stockholders.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws inconsistent or in conflict herewith be and the same are hereby repealed.

## **ORGANIZATION OF INSURANCE COMPANIES ON STOCK PLAN.**

**Act 203 of 1908, p. 301.**

### **TITLE.**

AN ACT providing for the organization of stock insurance companies on the stock plan in this State; the kinds of insurance which can be transacted; the amount of capital required for such companies other than companies formed for the purpose of transacting life, health, accident, burial or sick benefit insurance on the industrial plan; repealing all laws or parts of laws on the same subject matter in conflict herewith, and requiring deposit with the State Treasurer by live stock companies.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for any number of persons, not less than fifteen, citizens of the United States, and residents of this State on compliance with the provisions following, to form insurance companies on the stock plan, for any of the following purposes, to-wit:

First. To insure against loss or damage to property by fire, lightning, windstorm or tornadoes.

Second. To insure vessels, freights, goods, money, effects and money lent on bottomry or respondentia and every insurance appertaining to or connected with marine risks and risks of transportation and inland navigation, including insurance upon automobiles, whether stationary or being operated under their own power.

Third. To insure the lives or the health of persons, and every insurance appertaining thereto, and to grant, purchase or dispose of annuities.

Fourth. To insure against injury, disablement or death resulting from traveling or general accident, and against disablement resulting from sickness, and every insurance appertaining thereto.

Fifth. To insure against loss or damage resulting from accident to or injury suffered by an employee or other person and for which the person insured is liable.

Sixth. To guarantee the fidelity of persons holding places of public or private trust.

To guarantee the performance of contracts other than insurance policies and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law required.

Seventh. To guarantee and indemnify merchants, traders and those engaged in business and giving credit from loss or damage by reason of giving and extending credit to their customers and those dealing with them.

Eighth. To insure against loss or damage to property of the assured, or loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers, pipes, engines, and machinery connected therewith and operated thereby, and to make inspection of and to issue certificates of inspection upon such boilers, pipes, engines and machinery.

Ninth. To insure against burglary, larceny or theft, or either or attempts thereof.

Tenth. To insure against the breakage of plate glass, local or in transit.

Eleventh. To insure against loss or damage to an automobile resulting from collision, and against loss by legal liability or damage to property resulting from collision of an automobile with another automobile, or vehicle, or object.

Twelfth. To insure against loss or damage by water to any goods or premises arising from the leakage or breakage of sprinklers and water pipes.

Thirteenth. To insure against loss of live stock by death from disease, lightning, tornadoes, cyclones, accidents and every other casual or accidental cause, also against theft.

Fourteenth. To insure against any other casualty specified in the charter which may legally be the subject of insurance.

**Sec. 2.** Be it further enacted, etc., That no corporation so formed shall transact any other business than that specified in its charter or articles of organization, and no company shall be formed for the transaction of both fire and life insurance.

Companies formed for the transaction upon the stock plan to insure fire, marine and river risks shall have a subscribed capital of not less than two hundred thousand dollars (\$200,000).

Companies formed upon the stock plan of life liability, fidelity and surety insurance, or for the transaction of business authorized under the seventh, eighth, ninth, tenth, eleventh, twelfth and fourteenth paragraphs of Section first of this Act, shall have a subscribed capital of not less than one hundred thousand dollars (\$100,000), and under paragraph thirteenth shall have a paid up capital of not less than twenty-five thousand dollars (\$25,000), and companies doing business under this paragraph must in addition to complying with all of the other laws governing insurance companies shall deposit with the State Treasurer, approved securities such as now required by law from surety companies in the amount of not less than five thousand dollars (\$5,000), and such securities he shall hold as security for policy holders in the company.

That the capital stock of all such corporations shall be subscribed and paid for in cash, within twelve months from the date of its charter, and no certificates of stock shall be issued until paid for in full and no policies of insurance shall be issued by said corporations, or business done by them, until fifty per cent of the entire capital shall be paid for in cash; and, if the whole of said capital stock shall not be paid for in twelve months from the date of the charter it shall be the duty of the Secretary of State to immediately revoke the license granted or issued to any such corporation to do business in this State and publish notice of such revocation as required by law the charter of the offending corporation shall be forfeited, and all contracts of insurance entered into after the revocation of such license shall be null and void. Any company which shall combine two or more of the subjects specified by Section first of this Act shall have an additional capital stock of fifty thousand dollars (\$50,000), fully paid in cash for every kind of insurance more than one which it is authorized to do by Section 1 of this Act providing that the provisions of the section shall not apply to companies organized to transact life, health, accident, burial or sick benefit insurance on the industrial plan.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws on the same subject matter or in conflict herewith be and the same are hereby repealed.

## MUTUAL INSURANCE COMPANIES.

**Act 275 of 1918, p. 525.**

### TITLE.

**AN ACT** to authorize Mutual Insurance Companies to transact the various kinds of insurance as is now provided by law for Insurance Companies organized under the stock plan.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Mutual Insurance Companies organized in accordance with the law of this State, or qualified to do business in this State, are authorized to transact any of the kinds of insurance as now permitted to be transacted by insurance companies organized under the stock plan as set forth in Section 1 of Act 203 of 1908. Provided that no Mutual Insurance Company organized or authorized to do business in this State shall transact any more than one kind of business specified in said section of said act; and provided further, that nothing herein shall be so construed as to change the qualifications now required by law of Insurance Companies to transact business in this State.

## ORGANIZATION OF MUTUAL LIFE INSURANCE COMPANIES.

Act 169 of 1908, p. 228.

### TITLE.

AN ACT providing the manner of organizing mutual life insurance companies, and the conditions relative to capital under which stock life insurance companies hereafter organized may begin business; requiring a deposit of \$100,000 in securities from such companies; providing stock life companies already organized may reduce their capital to \$50,000 and that they shall be permitted to do business on that amount of paid in cash capital upon depositing \$25,000 in securities with the State Treasurer, providing the time for such deposit and providing for the repeal of Act 99 of 1906.

### MINIMUM CAPITAL AND INSURANCE.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no stock life insurance company hereafter organized under the laws of this State shall be permitted to transact any business until at least one hundred thousand dollars of its capital stock has been fully paid up in cash, or, if a mutual company, until at least two hundred persons have subscribed in the aggregate for at least five hundred thousand dollars of insurance upon their lives and shall each have paid in one full annual premium in cash upon the insurance subscribed for, nor in either case until it shall have deposited with the State Treasurer one hundred thousand dollars in the securities now required by law from surety companies.

### AMOUNT MUTUAL CORPORATION MAY BORROW.

Sec. 2. Be it further enacted, etc., That a mutual corporation may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization and to provide the amount to be deposited with the State Treasurer, as aforesaid, upon an agreement that the same with interest at a rate not exceeding eight per cent per annum shall be repaid only in the event that after such repayment with interest the corporation shall be left possessed of sufficient assets to meet all of its liabilities and to maintain a full legal reserve against its policies; and such agreement shall provide that the corporation shall have the option to make such repayment whenever it shall be able to do so in accordance with the aforesaid conditions.

### REDUCTION OF CAPITAL OF STOCK LIFE INSURANCE COMPANIES.

Sec. 3. Be it further enacted, etc., That stock life insurance companies already organized may be permitted to reduce the amount of their capital stock to the sum of fifty thousand dollars and that they shall be permitted to do business on that amount of paid in cash capital upon depositing, within one year from the passage of this Act, with the State Treasurer, twenty-five thousand dollars in the securities now required by law from surety companies.

**DEPOSIT OF SECURITIES.**

Sec. 4. Be it further enacted, etc., That the securities deposited pursuant to this Act shall be held by the State Treasurer in trust for the benefit and protection of and as security for the policy holders of the corporation making the deposit.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That Act 99 of the Session Acts of 1906 be and the same is hereby repealed.

**DEFINING AND REGULATING INDUSTRIAL LIFE INSURANCE.**

**Act 65 of 1906, p. 101.**

**TITLE.**

AN ACT to define and regulate the business of industrial life insurance; to provide the manner in which foreign and domestic corporations, associations, societies, or fraternal orders doing business of industrial life insurance shall be authorized to do business in this State; to provide for the making of a deposit with the Treasurer of the State by such corporations, associations, societies or fraternal orders as a condition precedent to doing business in this State, and to fix the amount thereof. Provided that foreign corporations, associations, relief organizations, societies or fraternal orders that have made sufficient deposit in the State in which they are incorporated, or that have made sufficient deposit in any other State, shall not be required to make such deposit in this State, and fixing penalties for the violation of this Act, and to repeal all laws in conflict with this Act.

**DEFINING INDUSTRIAL LIFE INSURANCE.**

Section 1. (As amended by Act 240, 1916, p. 509). Be it enacted by the General Assembly of the State of Louisiana, That Industrial Life Insurance is hereby defined to be that Insurance for which stipulated premiums, advanced assessments or dues are regularly payable and collectible every four weeks, tri-weekly, bi-weekly, weekly, semi-weekly or at any other stated terms not exceeding one calendar month apart, and the policies or benefit certificates for which are for sums of five hundred dollars or less on a single life on which policies or benefit certificates provide a weekly cash benefit for disability, caused by sickness or accident, of twenty dollars per week or less, or which provide for the attendance of a physician or supplying of drugs, or furnishing a funeral.

**CORPORATIONS, ETC., CONSIDERED DOING INDUSTRIAL LIFE INSURANCE.**

Sec. 2. Be it further enacted, etc., That all corporations, societies, relief organizations, fraternal orders or associations, with or without capital stock, and having or not having a ritualistic form of government, whether operating under the present insurance laws as insurance companies, or operating under the laws governing fraternal beneficiary orders, and issuing policies or benefit certificates and carrying on their business in the manner and within the meaning and definition set forth in Section 1 of this Act, shall be held and deemed to be doing an industrial life insurance business and shall be subject to this Act and all the other laws of this State, not repugnant to this Act, regulating the business of life, health and accident insurance in this State.

**DEPOSIT REQUIRED OF INDUSTRIAL LIFE INSURANCE COMPANIES.**

Sec. 3. Be it further enacted, etc., That any corporation, association, society or fraternal order organized under the laws of this State, whether organized upon the mutual assessment plan or as a stock company, for the purpose of doing the business of industrial life insurance, as in this Act de-

fined, shall, before commencing to do business in this State, comply with the laws of this State, regulating the manner in which other insurance companies shall be authorized to do business in this State, except that a deposit of one thousand dollars (\$1,000.00), where the membership is one thousand or less, and for every additional one thousand members or fraction of one thousand added to the membership an additional deposit of five hundred dollars (\$500.00), until the total sum of five thousand dollars (\$5,000.00) has been deposited, shall be made by companies operating upon the plan and according to the manner specified in this Act. Such deposit shall be made with the State Treasurer of this State in such securities as are now required of surety companies, and shall be held subject to any claim, liens or judgments that may be judicially obtained against them in the courts of this State, or the Federal courts in this State, or arising from any contract of insurance or indemnity, entered into in this State, and to be liable to seizure and sale at the instance of any judgment creditor of such companies, under judgment obtained in any of the courts of this State or of the Federal courts in this State against them.

Note. Beginning with the word "except" [line 7] this section is inconsistent and contrary to Act 105, 1898, Art. 1, Sec. 15 (printed at p. 934) and Industrial Life Insurance Companies need comply only with the Act of 1898, where the provisions of the Act of 1908 are inconsistent with the Act of 1898. The deposit of \$2,000 in State bonds will entitle an Industrial Life Insurance Company to carry on its business. State ex rel. Unity Industrial L. & I. Ben. Ass. vs. Michel, Secty. of State, 121 L. 330. See Act 246, 1908, printed at p. 951.

#### **REQUIREMENTS FOR ADMISSION OF FOREIGN COMPANIES.**

**Sec. 4.** Be it further enacted, etc., That any corporation, association, society or fraternal order organized under the laws of any other State upon the mutual assessment plan or as a stock company for the purpose of doing business in this State upon complying with the other laws of this State regulating the manner in which foreign insurance companies shall be authorized to do business in this State, and filing with the Insurance Commissioner of this State, a certificate from the officer having supervision of the Insurance Department of the State under the laws of which such corporation, association, society or fraternal order was chartered or elects to make its deposit, that such corporation, association, society or fraternal order has deposited with said State a sum of not less than five thousand dollars (\$5,000.00) in such securities as are required to be deposited by insurance companies in said States.

#### **COMPANIES TO WHICH ACT DOES NOT APPLY.**

**Sec. 5.** Be it further enacted, etc., That the provisions of this Act shall in no way apply to any company, organization or association or society which does not collect its premiums or dues every four weeks, tri-weekly, bi-weekly, weekly, semi-weekly or at any stated terms of days less than a month apart, but any company, organization, association, society or fraternal beneficiary order, with or without a ritualistic form of government, which collects its dues or premiums, every four weeks, tri-weekly, bi-weekly, weekly, semi-weekly or at any stated terms of days less than a month apart, shall come under the provisions of this Act.

#### **VIOLATION OF ACT BY FOREIGN COMPANIES.**

**Sec. 6.** Be it further enacted, etc., That all officers, directors, managers, employees and agents of foreign and domestic corporations, relief organizations, societies and fraternal orders, who shall conduct or attempt to conduct the business of industrial life insurance without having first complied with, or who in any manner violate, or refuse or neglect to comply with the provisions and requirements of this Act shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction shall be fined not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00), or be imprisoned in the parish jail (parish prison in the city of New Orleans) not less than thirty (30) or more than ninety (90) days.

**REFERENCE TO INDUSTRIAL LIFE INSURANCE NECESSARY IN ACT.**

Sec. 7. Be it further enacted, etc., That no law, hereafter passed, shall be held or deemed to refer to the business of industrial life insurance unless the same is expressly referred to in said law.

**WHEN ACT BECOMES EFFECTIVE.****REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That this Act shall become effective from and after January first, nineteen hundred and seven, and that all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

**INDUSTRIAL LIFE INSURANCE.**

**Act 246 of 1908, p. 366.**

**TITLE.**

AN ACT relating to Industrial Life Insurance; to regulate the organization of Industrial Life Insurance Companies requiring them to make a deposit with the State Treasury and providing that stock companies shall have a fully paid up capital and mutual companies shall have issued to them a certificate of authority or license by the Secretary of State before beginning business and prohibiting all corporations, associations, partnerships and individuals from conducting an Industrial Life Insurance business without a certificate of authority or license from the Secretary of State, and to provide a method of procedure to enjoin the operation of companies not complying with law.

**REQUIREMENTS FOR ORGANIZATION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all Industrial Life Insurance Companies, as defined by Act 65 of 1906, shall in addition to complying with said act be organized under the provisions and terms of Act 105 of 1898, except as hereinafter modified.

**CAPITAL REQUIRED.**

Sec. 2. Be it further enacted, etc., That all Industrial Life Insurance Companies organized as stock companies must have a capital stock of ten thousand dollars fully paid up in cash before beginning business.

**INITIAL FUND.**

Sec. 3. Be it further enacted, etc., That all companies organized on the mutual plan shall have an initial fund of five thousand dollars in cash in the treasury before beginning business. A mutual company may borrow or assume liability for the payment of a sum of money sufficient to defray the reasonable expenses of its organization and to provide the amount of the initial fund as aforesaid upon an agreement, that the same with interest at a rate not exceeding eight per cent. per annum shall be repaid only in the event that after such repayment with interest the corporation shall be left possessed of sufficient assets to meet all its liabilities and to maintain intact its initial fund, and such agreement shall provide that the corporation shall have the option to make such repayment whenever it shall be able to do so in accordance with the aforesaid conditions.

**DEPOSIT WITH STATE TREASURER.**

Sec. 4. Be it further enacted, etc., That all Industrial Life Insurance Companies, whether organized on the stock plan or mutual plan, shall make a deposit with the State Treasurer of one thousand dollars where the membership is one thousand or less and for every additional one thousand members or fraction of one thousand added to the membership, an additional deposit of five hundred dollars until the total sum of five thousand dollars has been deposited. Such deposit shall be made with the State Treasurer of this State in such securities as are now required of surety companies, and shall be held subject to any claim, liens or judgments that may be judicially

obtained against them in the courts of this State or Federal Court of this State, or arising from any contract of insurance or indemnity entered into in this State and to be liable to seizure and sale at the instance of any judgment creditor of such companies under judgment obtained in any court of this State or of the Federal Courts in this State against them.

#### **MUST OBTAIN CERTIFICATE FROM SECRETARY OF STATE.**

Sec. 5. Be it further enacted, etc., That no Industrial Life Company shall be authorized to do business in this State until it shall obtain from the Secretary of State a certificate that it has been organized in compliance with the laws of this State and has complied with the provisions of this Act, and such certificate shall be a license to begin business and make contracts of insurance.

#### **MUST ORGANIZE BEFORE BEGINNING BUSINESS.**

Sec. 6. Be it further enacted, etc., That corporations, associations, partnerships and individuals are prohibited from carrying on an Industrial Life Insurance business without first organizing as a corporation in compliance with the terms of this Act and first obtaining the certificate of authority or license as hereinabove provided. That if any corporation, association, partnership or individual shall conduct or attempt to conduct an industrial life insurance business without first obtaining a certificate of authority and license from the Secretary of State, as herein provided, the Secretary of State shall in the name of the State of Louisiana, on motion in the proper courts as provided in the Constitution, and which shall be without deposit or advance cost, take a rule on the party or parties doing such business to show cause on the fifth day, exclusive of holidays, after the service thereof, which may be tried out of term times and in chambers, and shall always be tried by preference, why said party or parties should not be enjoined from further pursuit of said business until after having obtained a certificate of authority and license, as herein provided, and in case the court shall find that said party or parties, against whom the rule has been taken, has been conducting an industrial life insurance business without first having complied with the laws of Louisiana and with this Act, and without having obtained a certificate of authority and license from the Secretary of State, the court shall make said rule absolute and every violation of the order and judgment of the court shall be considered as a contempt thereof and punished according to law.

#### **ACT HAS NO RETROACTIVE EFFECT.**

Sec. 7. Be it further enacted, etc., That this Act shall have no retroactive effect as to industrial life insurance corporations already organized in conformity with law and holding certificates of the Secretary of State.

#### **REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws and parts of laws in conflict with this Act are hereby repealed.

*Note. This Act does not repeal Sec. 2, Act 105, 1898 (printed on p. 928); the latter is still in force and effect, and Insurance Companies must comply with its provisions. State ex rel. Lumbermen's Acc. Co. vs. Michel, 124 L. 558.*

### **FRATERNAL INSURANCE ASSOCIATIONS.**

#### **Act 256 of 1912, p. 565.**

##### **TITLE.**

**AN ACT** to amend and re-enact Act No. 115 of 1906 entitled "An Act to provide for the organization, admission and regulation of associations transacting the business of life, accident, sick benefit or physical disability insurance on the fraternal plan, and to fix penalties for the violation of this Act, and to repeal all laws in conflict with the provisions of this Act."

**WHAT IS A FRATERNAL BENEFIT SOCIETY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit and having a lodge system and ritualistic form of work and representative form of government, and shall make provisions for the payment of benefits in accordance with Section 5 hereof, is hereby declared to be a Fraternal Benefit Society.

**SAME SUBJECT.**

Sec. 2. Be it further enacted, etc., That any society having a supreme governing or legislative body and subordinate lodge or branches by whatever name known, into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules and regulations and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month, shall be deemed to be operating on the lodge system.

**REPRESENTATIVE FORM OF GOVERNMENT.**

Sec. 3. Be it further enacted, etc., That any such society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws, provided, that the elective members shall constitute a majority in number and have not less than two-thirds of the votes, nor less than the votes required to amend its constitution and laws; and provided further, that the meetings of the supreme or governing body, and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal benefit society shall not vote by proxy.

**EXEMPTION FROM INSURANCE LAWS.**

Sec. 4. Be it further enacted, etc., That except as herein provided, such society shall be governed by this Act, and shall be exempt from all provisions of the insurance laws of this State, not only in governmental relations with the State, but for every other purpose, and no law hereafter enacted shall apply to them, unless they be expressly designated therein.

**MUST PROVIDE FOR PAYMENT OF BENEFITS, ETC.**

Sec. 5. Be it further enacted, etc., That every society transacting business under this Act shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age; provided, the period of life at which the payment of benefits for disability on account of old age shall commence, shall not be under seventy years, and may provide for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all, or such portion of the face value of his certificate as the laws of the society may provide; provided, that nothing in this Act contained shall be so construed as to prevent the issuing of benefit certificates for a term of years less than the whole of life which are payable upon the death or disability of the member occurring within the term for which the benefit certificate may be issued. Such society, shall, upon written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one-half of the periodical contribution, against the certificates with interest payable or compounded annually at a rate not lower than four per cent per annum; provided, that this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contributions, and to contracts affected by such readjustments.

**RESERVES IT MUST HAVE.**

2. Any society which shall show by the annual violation hereinafter provided for that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American Experience Table and four per cent interest, any grant to its members extended and paid-up protection, or such withdrawal equities as its constitution and laws may provide; provided, that such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

**TO WHOM BENEFITS CONFINED.**

Sec. 6. Be it further enacted, etc., That the payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, or to a person or persons dependent upon member; provided, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege with the consent of the society, to make such institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary, and, from time to time, have the same changed in accordance with the laws, rules or regulations of the society, and no beneficiary shall have or obtain any vested interest in said benefit until the same has become due and payable upon the death of said member; provided, that any society may, by its laws, limit the scope of beneficiaries within the above classes.

**QUALIFICATION FOR MEMBERSHIP.**

Sec. 7. Be it further enacted, etc., That any society may admit to beneficial membership any person not less than sixteen and not more than sixty years of age, who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society; provided, that any beneficiary member of such society who shall apply for a certificate providing for disability benefits, need not be required to pass an additional medical examination therefor. Nothing herein contained shall prevent such society from accepting general or social members.

**WHAT CERTIFICATES MUST SPECIFY.**

Sec. 8. Be it further enacted, etc., That every certificate issued by any such society shall specify the amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association, the articles of association, the constitution and laws of the society and the application for membership and medical examination, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member, and copies of the same certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof, and any changes, additions or amendments to said charter or articles of incorporation, or articles of association, if a voluntary association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries, and shall govern and control the agreement in all respects, the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

**INVESTMENT OF FUNDS.**

Sec. 9. Be it further enacted, etc., That,

1. Any society may create, maintain, invest, disburse and apply an emergency, surplus or other similar fund in accordance with its laws, unless otherwise provided in the contract, such funds shall be held, invested, and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein before entitled to any apportionment or the surrender of any part thereof, except as provided in sub-section 2 of Section 5 of this Act. The funds from which bene-

fits shall be paid and the funds from which the expenses of the society shall be defrayed, shall be derived from periodical or other payments by the members of the society and accretions of said fund; provided, that no society, domestic or foreign, shall hereafter be incorporated or admitted to transact business in this State, which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23rd, 1899, or any higher standard, with interest assumption not more than four per cent per annum, nor write or accept members for temporary or permanent disability benefits except upon tables based upon reliable experience, with an interest assumption not higher than four per cent per annum.

2. Deferred payment or installments of claims shall be considered as fixed liabilities on the happenings of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed the society for valuation, and every society shall maintain a fund sufficient to meet such liability regardless of proposed future collection to meet any such liabilities.

**CHARACTER OF INVESTMENTS.**

Sec. 10. Be it further enacted, etc., That every society shall invest its funds only in securities permitted by the laws of this State for the investment of the assets of life insurance companies; provided, that any foreign society permitted or seeking to do business in this State, which invests its funds in accordance with the laws of the State in which it is incorporated, shall be held to meet the requirements of this Act for the investment of funds.

**FUNDS MUST BE USED FOR PART OF BENEFITS.**

Sec. 11. Be it further enacted, etc., That every provision of the law of the society for payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions of either of any of said funds shall be used for expenses.

**NUMBER AND STEPS NECESSARY FOR ORGANIZATION.**

Sec. 12. Be it further enacted, etc., That seven or more persons, citizens of the United States, and a majority of whom are citizens of this State, who desire to form a Fraternal Benefit Society, as defined by this Act, may make and sign (giving their addresses) and acknowledge before some officer competent to make acknowledgment of deeds, articles of incorporation, in which shall be stated:

**CORPORATE NAME.**

First—The proposed corporate name of the society, which shall not so closely resemble the name of any society, or insurance company already transacting business in this State as to mislead the public or to lead to confusion.

**PURPOSE.**

Second—The purpose for which it is formed which shall not include more liberal powers than are granted by this Act; provided, that any lawful social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society and the mode in which its corporate powers are to be exercised.

**NAMES, ETC., OF OFFICERS.**

Third—The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be

elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate.

**MUST BE FILED WITH SECRETARY OF STATE.**

Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of five thousand dollars, with sureties approved by the Secretary of State, conditioned upon the return of the advance payments, as provided in this section, to applicants, if the organization is not completed within one year, shall be filed with the Secretary of State, who may require such further information as he deems necessary, and if the purposes of the society conform to the requirements of this Act, and all provisions of law have been complied with, the Secretary of State shall so certify and retain and record (or file), the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

**WHEN SOCIETY MAY SELECT MEMBERS.**

Upon receipt of said certificate from the Secretary of State, said society may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer to promise to pay or allow, to any person any death or disability until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examinations have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated; nor until there has been submitted to the Secretary of State, under oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligations, contracted, when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress August 23, 1899, or any higher standard at the option of the society, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four per cent per annum, or until it shall be shown to the Secretary of State by the sworn statement of the treasurer, or corresponding officer of such society that at least five hundred applicants have each paid in cash at least one regular monthly payment as herein provided per one thousand dollars of indemnity to be effected, which payments in the aggregate shall amount to at least twenty-five hundred dollars; all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses.

**ADVANCE PAYMENTS HELD IN TRUST.**

Said advance payments shall, during the period of organization, be held in trust, and, if the organization is not completed within one year as hereinafter provided, returned to said applicants. The Secretary of State may make such examination and require such further information as he deems advisable, and upon presentation of satisfactory evidence that the society has complied with all the provisions of law; he shall issue to such

society a certificate to that effect. Such certificate shall be *prima facie* evidence of the existence of such society at the date of such certificate. The Secretary of State shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

**PRELIMINARY CERTIFICATE.**

No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the Secretary of State, upon cause shown; unless the five hundred applicants herein required have been secured and the organization has been completed as herein provided; and the articles of incorporation and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and commenced business as herein provided. When any domestic society shall have discontinued business for the period of one year, or has less than 400 members, its charter shall become null and void.

**POWER TO MAKE CONSTITUTION.**

Every such society shall have the power to make a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjustment of the rates of contribution of its members from time to time, and it shall have the power to change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

**RIGHTS, ETC., WHICH SOCIETY MAY EXERCISE.**

Sec. 13. Be it further enacted, etc. That any society now engaged in transacting business in this State may exercise, after the passage of this Act, all of the rights conferred thereby, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this Act, if incorporated; or if it be a voluntary association, it may incorporate hereunder. But no society, already organized shall be required to reincorporate hereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws, and all such amendments shall be filed with the Secretary of State and shall become operative under such filing, unless a later time be provided in such amendments or in its articles of incorporation, constitution or laws.

**MERGER OF DOMESTIC SOCIETIES.**

Sec. 14. Be it further enacted, etc. That no domestic society shall merge with or accept the transfer of the membership or funds of any other society unless such merger or transfer is evidenced by a contract in writing, setting out in full the terms and conditions of such merger or transfer, and filed with the Secretary of State of this State, together with a sworn statement of the financial condition of each of said societies, by its president and secretary, or corresponding officers, and a certificate of such officers, duly verified under oath of said officers of each of the contracting societies that such merger or transfer has been approved by a vote of two-thirds of the members of the supreme legislative or governing body of each of said societies. Upon the submission of said contract, financial statements and certificates, the Secretary of State shall examine the same, and, if he shall find such financial statements to be correct and the said contract to be in conformity with the provisions of this section, and that such merger or transfer is just and equitable to the members of each of such societies, he shall approve said merger or transfer, issue his certificate to that effect and thereupon the said contract of merger or transfer shall be of full force and effect.

In case such contract is not approved, the fact of its submission and its contents shall not be disclosed by the Secretary of State.

**CONTINUANCE OF SOCIETIES NOW EXISTING.**

Sec. 15. Be it further enacted, etc., That societies which are now authorized to transact business in this State may continue such business until the first day of April next succeeding the passage of this Act, and the authority of such societies may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April; provided, however, the license shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the Secretary of State twenty-five dollars.

A duly certified copy or duplicate of such license shall be prima facie evidence that the license is a fraternal benefit society within the meaning of this Act.

**FOREIGN SOCIETIES.**

Sec. 16. Be it further enacted, etc., That no foreign society now transacting business, organized prior to the passage of this Act, which is not now authorized to transact business in this State, shall transact any business herein without a license from the Secretary of State, any such society shall be entitled to a license to transact business within this State upon filing with the Secretary of State a duly certified copy of its charter or articles of associations; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the Secretary of State as hereinafter provided; a statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the Secretary of State, duly verified by an examination made by the supervising insurance official of its home State or other State satisfactory to the Secretary of State of this State; a certificate from the proper official in its home State, province or country, that the society is legally organized; a copy of its contract which must show that benefits are provided for by periodical or other payments by persons holding similar contracts; and upon furnishing the Secretary of State such other information as he may deem necessary to a proper exhibit of its business and plan of working, and upon showing that its assets are invested in accordance with the laws of the State, territory, district, province or country where it is organized, he shall issue a license to such society to do business in this State until the first day of the succeeding April, and such license shall, upon compliance with the provisions of this Act, be renewed annually, but in all cases to terminate on the first day of the succeeding April; provided, however, that license shall continue in full force and effect until the new license be issued or specifically refused. Any foreign society desiring admission to this State, shall have the qualifications required of domestic societies organized under this Act and have its assets invested as required by the laws of the State, territory, district, country, or province where it is organized. For each such license or renewal the society shall pay the Secretary of State twenty-five dollars. When the Secretary of State refuses to license any society, or revokes its authority to do business in this State, he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the society, upon request, and the action of the Secretary of State shall be reviewable by proper proceedings in any court of competent jurisdiction within the State; provided, however, that nothing contained in this or the preceding section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this State during the time such society was legally authorized to transact business herein.

**APPOINTMENT OF SECRETARY OF STATE AS AGENT, ETC.**

Sec. 17. Be it further enacted, etc., That every society, whether domestic or foreign, now transacting business in this State shall, within thirty days after the passage of this Act, and every such society hereafter applying for admission, shall, before being licensed, appoint in writing the Secretary of State and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process

against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society and that the authority shall continue in force so long as any liability remains outstanding in this State.

Copies of such appointment, certified by said Secretary of State, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate upon the Secretary of State, or in his absence upon the person in charge of his office, and shall be deemed sufficient service upon such society; provided, however, that no such service shall be valid or binding against any such society when it is required hereunder to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon said Secretary of State he shall forthwith forward by registered mail one of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

#### **MEETINGS OF DOMESTIC SOCIETY.**

Sec. 18. Be it further enacted, etc., That any domestic society may provide that the meetings of its legislative or governing body may be held in any State, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State; but its principal office shall be located in this State.

#### **LIABILITY OF OFFICERS.**

Sec. 19. Be it further enacted, etc., That officers and members of the supreme, grand or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such society; but the same shall be payable only out of the funds of such society and in the manner provided by its laws.

#### **PROVISIONS OF CONSTITUTION.**

Sec. 20. Be it further enacted, etc., That the constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members.

#### **BENEFITS NOT SUBJECT TO GARNISHMENT, ETC.**

Sec. 21. Be it further enacted, etc., That no money or other benefit, charity or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnishment or other process, or be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment.

*Note.* This section is unconstitutional and void. The subject is not covered by the title of the original and amending acts. Benefits under the act are therefore not exempt from seizure. *Lavedan vs. Thompson*, 133 L. 882.

#### **COPIES OF CONSTITUTION, ETC., AS EVIDENCE.**

Sec. 22. Be it further enacted, etc., That every society transacting business under this Act shall file with the Secretary of State a duly certified copy of all amendments of or additions to its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws as amended, changed or added to, certified by the secretary or corresponding officer of the society, shall be *prima facie* evidence of the legal adoption thereof.

**ANNUAL STATEMENT OF SOCIETY.**

Sec. 23. Be it further enacted, etc., That every society transacting business in this State shall annually, on or before the first day of March, file with the Secretary of State, in such form as he may require, a statement under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding and of its transactions for the year ending on that date, and also shall furnish such other information as the Secretary of State may deem necessary to a proper exhibit of its business and plan of working. The Secretary of State may at other times require any further statement he may deem necessary to be made relating to such society.

**VALUATION OF CERTIFICATES.**

In addition to the annual report herein required, each society shall annually report to the Secretary of State a valuation of its certificates in force on December 31, last preceding; excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses; provided, the first report of valuation shall be made as of December 31, 1912. Such report of valuation shall show, as contingent liabilities, the present mid-year value of the promised benefit provided in the constitution and laws of such society under certificates then subject to valuation; and, as contingent assets, the present mid-year values of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years.

**CERTIFICATION BY ACCOUNTANT.**

Such valuation shall be certified to by a competent accountant or actuary, or, at the request and expense of the society verified by the actuary of the department of insurance of the home State of the society, and shall be filed with the Secretary of State within ninety days after the submission of the last preceding annual report. The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress August 23, 1899, or at the option of the society, any higher table; or, at its option, it may use a table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives with interest assumption not more than four per centum per annum. Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation. Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefits and expense funds and the valuation of all other business of the business of the society; provided, that where a combined contribution table is used by a society for both death and permanent disability benefits, the valuation shall be according to tables of reliable experience and in such case a separation of the funds shall not be required.

The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the society, but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities.

**REPORTS TO BENEFICIARIES.**

Beginning with the year 1914 a report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1 of each year; or in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society. The laws of such society shall provide that if the stated periodical contributions of the mem-

bers are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws, additional, increased or extra rates of contribution shall be collected from the members to meet such a deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five per centum per annum.

**WHAT VALUATION OF CERTIFICATES MUST SHOW.**

Sec. 23. Be it further enacted, etc., That if the valuation of the certificates, as hereinbefore provided on December 31, 1917, shall show that the present value of future net contributions, together with the admitted assets, is less than ninety per centum of the present value of the promised benefits and accrued liabilities, such society shall be required thereafter to reduce such deficiency not less than five per centum of the total deficiency on said December 31, 1917, at each succeeding triennial valuation. If at any succeeding triennial valuation such society does not show such percentage of improvement, the Secretary of State shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the society has not made the percentage of improvement required herein, the Secretary of State may, in the absence of good cause shown for such failure, institute proceedings for the dissolution for such society, in accordance with the provisions of Section 24 of this Act, or, in the case of a foreign society, he may cancel its license to transact business in this State.

**TRIENNIAL VALUATION.**

Any such society, shown by any triennial valuation, subsequent to December 31, 1917, not to have made the improvement herein required shall, within one year thereafter, complete such deficient improvement or thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of Section 12 of this Act, applicable in the organization of new societies; provided, that the contributions and funds of such new members shall be kept separate and apart from the other fund of the society until the required improvement shall be shown by valuation. If such required improvement is not shown by the succeeding triennial valuation then the said new members may be placed in a separate class and their certificates valued as an independent society in respect of contributions and funds.

**EXAMINATION BY SECRETARY OF STATE.**

Sec. 24. Be it further enacted, etc., That the Secretary of State, or any person he may appoint shall have the power of visitation and examination into the affairs of any domestic society. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society and may summon and qualify as witness under oath and examine its officers, agents and employees of other persons in relation to the affairs, transactions and condition of the society.

The expense of such examination shall be paid by the society examined, upon statements furnished by the Secretary of State, and the examination shall be made at least once in three years.

Whenever after examination the Secretary of State is satisfied that any domestic society has failed to comply with any provisions of this Act, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of one year or more, shall have a membership of less than 400 (or shall determine to discontinue business) the Secretary of State may present the facts relating thereto to the Attorney General, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction, and such court shall thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business, and some person shall be appointed

receiver of such society, and shall proceed at once to take possession of the books, papers, moneys, and other assets of the society and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

No such proceedings shall be commenced by the Attorney General against any such society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given to it, on a day to be named in said notice to show cause why such proceedings should not be commenced.

#### **ATTORNEY GENERAL ONLY MAY OBTAIN INJUNCTION, ETC.**

Sec. 25. Be it further enacted, etc., That no application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such domestic society or branch thereof shall be entertained by any court in this State unless the same is made by the Attorney General.

#### **EXAMINATION OF FOREIGN SOCIETIES.**

Sec. 26. Be it further enacted, etc., That the Secretary of State, or any person whom he may appoint, may examine any foreign society transacting or applying for admission to transact business in this State. The said Secretary of State may employ assistants and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witness under oath and examine its officers, agents or employees and other persons in relation to the affairs, transactions and conditions of the society. He may, in his discretion, accept in lieu of such examination the examination of the Insurance Department of the State, territory, district, province or country where such society is organized.

The actual expenses of examiners making any such examination shall be paid by the society upon statement furnished by the Secretary of State. If any such society or its officers refuse to submit to such examination or to comply with the provisions of the sections relative thereto the authority to write new business in this State shall be suspended or license refused until satisfactory evidence is furnished the Secretary of State relating to the conditions and affairs of the society, and during such suspension the society shall not write new business in this State.

#### **STATEMENT BY SECRETARY OF STATE.**

Sec. 27. Be it further enacted, etc., That pending, during or after an examination or investigation of any such society, either domestic or foreign, the Secretary of State shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society, until a copy thereof shall have been served upon such society, at its home office, nor until such society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire.

#### **NOTICE TO FOREIGN SOCIETIES AFTER EXAMINATION.**

Sec. 28. Be it further enacted, etc., That when the Secretary of State, on investigation is satisfied that any foreign society transacting business under this Act has exceeded its powers, or has failed to comply with any provisions of this Act, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his finding, and state in writing the grounds of his dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the said Secretary of State, or the society does not present good and sufficient reasons why its authority to transact business in this State should not at that time be revoked, he may revoke the authority of the society to continue business in this State. All decisions and findings of the Secretary of State made under

the provisions of this section may be reviewed by proper proceedings in any court of competent jurisdiction, as provided in Section 16 of this Act.

**ORGANIZATIONS NOT AFFECTED BY ACT.**

Sec. 29. Be it further enacted, etc., That nothing contained in this Act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias (exclusive of the Insurance Department of the Supreme Lodge, Knights of Pythias), and the Junior Order of United American Mechanics (exclusive of the Beneficiary Degree or insurance branch of the National Council Junior Order United American Mechanics), or societies which limit their membership to any one hazardous occupation, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this State which provide death benefits not exceeding three hundred dollars to any one person, or disability benefits not exceeding three dollars in any one year to any one person or both, nor to any contracts of reinsurance business on such plan in this State, nor to domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars, to any one person in any one year; provided, always, that any such domestic order or society which has more than five hundred members, and provides for death or disability benefits, and any such domestic lodge, order or society which issues to any person a certificate providing for the payment of benefits, shall not be exempt by the provisions of this section, but shall comply with all the requirements of this Act. The Secretary of State may require from any society such information as will enable him to determine whether such society is exempt from the provisions of this Act.

Any fraternal benefit society, heretofore organized and incorporated and operating within the definition set forth in Sections 1, 2 and 3 of this Act, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this Act, and shall have all the privileges and shall be subject to all the provisions and regulations of this Act, except that the provisions of this Act requiring medical examinations, valuation of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

**EXEMPTION FROM TAXATION.**

Sec. 30. Be it further enacted, etc., that every fraternal benefit society organized or licensed under this Act is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every State, county, district, municipal and school tax, other than taxes on real estate and office equipment.

**FALSE, ETC., STATEMENTS.**

Sec. 31. Be it further enacted, etc., That any person, officer, member or examining physician of any society authorized to do business under this Act shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall willfully make a false statement of any material facts or things in a sworn statement as to the death or disability of a certificate holder in any such society for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall willfully make any false statement in any verified report or declaration under oath required or authorized by this

Act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury.

**SOLICITING MEMBERS BY UNAUTHORIZED PERSON.**

Any person who shall solicit membership for, or in any manner assist in procuring membership in any Fraternal Benefit Society not licensed to do business in this State, or who shall solicit for, or in any manner assist in procuring membership in any such society not authorized as herein provided, to do business as herein defined in this State, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty nor more than two hundred dollars.

**PENALTIES.**

Any society, or any officer, agent or employee thereof neglecting or refusing to comply with, or violating any of the provisions of this Act, the penalty for which neglect, refusal or violation is not specified in this section, shall be fined not exceeding two hundred dollars upon conviction thereof.

**REPEALING CLAUSE.**

Sec. 32. Be it further enacted, etc., That all acts and parts of acts inconsistent with this Act are hereby repealed.

**FRATERNAL BENEFICIARY ASSOCIATION INSURANCE  
ON LIVES OF CHILDREN.**

**Act 99 of 1918, p. 154.**

**TITLE.**

AN ACT relative to fraternal beneficiary associations and authorizing the issuance of life insurance policies to children between the ages of one and eighteen years.

**CERTIFICATES OF BENEFIT ON CHILDREN.**

Be it enacted by the General Assembly of the State of Louisiana:

Section 1. That any fraternal beneficiary association organized under the laws of this State or doing business in this State, may issue certificates for the payment of sick, death or annuity benefits upon the lives of children between the ages of one and eighteen years who have been examined and approved in accordance with the laws of such association, provided that the application for such a benefit certificate shall be made, by a parent or guardian of such child or some person upon whom such child is dependant for support. When such child shall arrive at the age permitting a personal application for insurance under the laws of such association, the certificate issued under this provision may be exchanged for any other form of certificate issued by the association, such exchange to be in accordance with the constitution, laws and regulations of such association. The free designation of a beneficiary in such exchange being left to such child.

**NUMBER OF MEMBERS REQUIRED.**

Sec. 2. Be it further enacted, etc., That such association shall not issue any such benefit certificate until after it shall have simultaneously put in force at least five hundred such certificates on each of which, at least, one assessment has been paid; nor where the number of lives represented by such certificates falls below five hundred.

**BASIS OF BENEFICIARY ASSESSMENT.**

Sec. 3. Be it further enacted, etc., That the net beneficiary assessment collected upon such certificate shall be based upon the Standard Industrial Table of Mortality now adopted by the State of New York and interest at the rate of three and one-half per centum per annum, or upon a higher standard. The funds so collected shall be kept as separate and distinct funds and

shall not be liable nor used for the payments of debts and obligations of the association other than the benefits herein authorized.

Be it further enacted, etc., That an entire separate financial statement of the business transactions and of assets and liabilities rising therefrom shall be made in its annual report to the Insurance Commission by any society availing itself of the provision hereof. The separation of assets, fund, and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in this section and act. And that any society shall have the right to provide in its laws and the certificates issued for the expenses incidental to carrying on this form of insurance.

**DEATH BENEFITS.**

Sec. 4. Be it further enacted, etc., That death benefits shall be made to increase with advancing age but shall not exceed the sum specified in the following table, the ages therein specified being the ages at the time of death.

Between the ages of two and three years, thirty-four dollars;  
Between the ages of three and four years, forty dollars;  
Between the ages of four and five years, forty-eight dollars;  
Between the ages of five and six years, fifty-eight dollars;  
Between the ages of six and seven years, one hundred and forty dollars;  
Between the ages of seven and eight years, one hundred and sixty-eight dollars;  
Between the ages of eight and nine years, two hundred dollars;  
Between the ages of nine and ten years, two hundred and forty dollars;  
Between the ages of ten and eleven years, three hundred dollars;  
Between the ages of eleven and twelve years, three hundred dollars;  
Between the ages of twelve and thirteen years, four hundred and sixty dollars;  
Between the ages of thirteen and sixteen years, five hundred and twenty dollars;  
Between the ages of sixteen and seventeen years, six hundred and twelve dollars.  
Between the ages of seventeen and eighteen years, seven hundred dollars;

**CERTIFICATES SHALL NOT ISSUE TO PERSONS OVER SIXTY.**

Sec. 5. Be it further enacted, etc., That no fraternal society created or organized under the provisions of this chapter shall issue beneficiary certificate of membership to any person over the age of sixty years. Payment of death benefits shall only be made to the families, heirs, blood relations, affianced husband or affianced wife of or the persons dependent upon the member.

Sec. 6. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**DEPOSIT BY LIFE INSURANCE COMPANIES.**

Act 99 of 1906, p. 165.

**TITLE.**

AN ACT regulating the organization of life insurance companies incorporated under the laws of this State, requiring them to deposit one hundred thousand dollars in securities now required by law with the State Treasurer, providing that stock companies shall have a fully paid up capital and mutual companies shall have at least two hundred subscribers with an aggregate of not less than two hundred thousand dollars insurance subscribed on their lives, and with one full annual premium paid, before beginning business.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no life insurance company organized under the laws of this State shall transact any business until its capital has been fully paid up in cash, or, if a mutual company, until at least two hundred persons have subscribed in the aggregate at for at least two hundred thousand dollars (\$200,000.00) of insurance upon their lives and shall each have paid in one full annual premium in cash upon the insurance subscribed for, nor in either case until it shall have deposited with the State Treasurer of this State one hundred thousand dollars (\$100,000.00) in the securities required by law of insurance companies. The securities deposited, pursuant to this section shall be held by the State Treasurer in trust and for the benefit and protection of and as security for the policy holders of the corporation. A mutual corporation may borrow or assume liability for the payment of a sum of money to defray the reasonable expenses of its organization and to provide the amount to be deposited with the State Treasurer as aforesaid upon an agreement that the same with interest at rate not exceeding eight per centum per annum shall be repaid only in the event that after such repayment with interest the corporation shall be left possessed of sufficient assets to meet all its liabilities and to maintain a full legal reserve against its policies and not until said reserve shall be equal to at least one hundred thousand dollars (\$100,000.00); and such agreement shall provide that the corporation shall have the option to make such repayment whenever it shall be able to do so in accordance with the aforesaid conditions.

**Sec. 2.** Be it further enacted, etc., That insurance companies provided for in this Act shall have twelve months from the date of their organization within which to comply with the provisions of this Act.

Provided, further, that this Act shall take effect from and after its passage.

## **REPORT OF LIFE INSURANCE COMPANIES.**

**Act 114 of 1898, p. 161.**

### **TITLE.**

**AN ACT** relative to life insurance and providing for reports to be furnished the Secretary of State, prohibiting payments by dividends or otherwise, unless assets exceed liabilities, penalties for violations thereof, providing for supervision by the Secretary of State, and to prevent discrimination against individuals insured. Also, providing for a license to transact business; for assessment or co-operative insurance; for authorization from Secretary of State; for filing copy of charter and statement of assets and liabilities, the words "issued on the assessment plan" to be written diagonally across the face of the policy; for supervision by the Secretary of State; also, providing for authority to act as agent; penalty for violations of this section, and providing for an annual report and penalties for violations of the Act; and to regulate generally the conduct of life insurance in this State, and repealing all laws in conflict herewith.

### **MUST BE RENDERED BEFORE FIRST OF MARCH.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That every life insurance company chartered by this State shall, on or before the first day of March in each year, render to the Secretary of State a report signed and sworn to by its president and secretary of its condition upon the preceding thirty-first day of December, which shall include a detailed statement of its assets and liabilities on that day; the amount and character of business transacted, moneys received and expended during the year; a descriptive list of all policies and contracts of insurance in force on that day; and such other information as the Secretary of State may deem necessary.

**VALUATION BY SECRETARY OF STATE.**

Sec. 2 Be it further enacted, etc., Upon receipt of such report, the Secretary of State shall have a valuation of the policies of each company and ascertain the re-insurance reserve and surplus of every such company, computed upon the basis of the so-called "actuaries or combined experience table of mortality," with compound interest at four (4) per cent per annum; and also upon the basis of the so-called "American Experience Table of Mortality," with compound interest at four (4) per cent per annum, or such other rate of interest as may be prescribed as the legal rate of reserve at the domicile of the corporation; provided, always, said rate is not greater than four (4) per cent per annum; and he shall value only net premiums.

**WHEN PAYMENT DIVIDENDS ALLOWED.**

Sec. 3. Be it further enacted, etc., Payments in the form of dividends, or otherwise, shall not be made to its stockholders by any life insurance company organized under the laws of this State, unless its assets exceed, to the amount of said payment, the amount of its paid-up capital stock and all its liabilities, including its "recombined experience table of mortality," with compound interest at four (4) per cent per annum; and no payments shall be made to the policyholders of any such company, except for matured claims, and in the purchase of the surrendered policies, unless its assets exceed to the amount of such payments, its liabilities including its re-insurance reserve, computed as above, in this section provided, but for all purposes the re-insurance reserve of every such company shall be computed upon the basis of the so-called "American Experience Table of Mortality," with interest at four (4) per cent per annum.

**SAME ILLEGAL PAYMENTS.**

Sec. 4. Be it further enacted, etc., Any officer or director of any such company who votes or assents to any payment, either to stockholders or policyholders, in violation of any of the provisions of the preceding section, shall forfeit to the State the sum of five thousand dollars, to be recovered in an action brought in the name of the Secretary of State.

**EXAMINATION BY SECRETARY OF STATE.**

Sec. 5. Be it further enacted, etc., The Secretary of State shall, at least once in two years, visit each life insurance company incorporated by this State, thoroughly examine its financial condition and ascertain whether it has complied with all the provisions of law.

**SAME SUBJECT.**

Sec. 6. Be it further enacted, etc., He shall in like manner examine any such insurance company not incorporated by this State, but doing business therein, whenever he has reason to doubt its solvency and may employ such assistants as may be necessary in making the examination; and all the expenses of an examination without the State shall be borne by the company examined.

**REFUSAL TO SUBMIT TO EXAMINATION.**

Sec. 7. Be it further enacted, etc., For such purpose the Secretary of State shall have free access to all books and papers of any life insurance company doing business in this State and may examine under oath its officers and agents relative to its condition. And if any company not incorporated by this State, or its officers or agents, refuse to submit to such examination, or to comply with any provision of this section, the authority of such company to do business in this State shall be revoked.

**NO ISSUE OF POLICIES UNTIL COMPLIANCE.**

Sec. 8. Be it further enacted, etc., No life insurance company incorporated by this State shall issue policies until upon examination by the Secretary of State it shall have been found to have complied with the laws thereof nor until he shall have issued his certificate setting forth such fact and authorizing such company to issue policies.

**UNLAWFUL DESTRUCTIONS BETWEEN "INSURANTS."**

Sec. 9. Be it further enacted, etc., No life insurance company doing business in the State of Louisiana shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in any manner of the terms and conditions of the contract it makes; nor shall any such company or agent, sub-agent, broker, or any other person, make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or agent, sub-agent, broker, or any other person, pay or allow, or offer to pay or allow, as inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever not specified in the policy contract of insurance.

Provided, however, that nothing in this section shall be construed to prevent agents accepting on their responsibility, notes for the first premiums.

Any violation of this section to which the assured is a party shall annul the contract ipso facto; the agent or solicitor making the rebate shall have his certificate of authority forfeited and shall not be eligible to receive a certificate of authority to do business in the State for a period of three (3) years.

**POLICIES WHICH MAY BE ISSUED.**

Sec. 10. Be it further enacted, etc., Any company chartered and now doing business in this State, and empowered to make contracts contingent upon life, is hereby authorized to issue policies or certificates insuring or protecting persons against loss of life or personal injury resulting from any cause, which policies or certificates shall state on their face the agreement with the person receiving the same, and when executed, in accordance with the charter and by-laws of said company, shall be binding upon the same.

**MAY IMPROVE REAL ESTATE.**

Sec. 11. Be it further enacted, etc., Life insurance companies chartered by this State may improve any real estate obtained in conformity to law whether said estate is situated in this or any other State.

**FOREIGN COMPANIES NOW ADMITTED INTO STATE.**

Sec. 12. Be it further enacted, etc., Any life insurance company organized out of this State, before being admitted to do business in this State, and on or before the first day of March annually, shall furnish to the Secretary of State a certificate of the proper officers of the government by whose authority it is organized, setting forth a full copy of its report of its conditions on the preceding thirty-first day of December, a valuation of its policies by said officers by a standard equivalent to that provided in Sections 2 and 3, and that it has complied with the laws of such government, and is authorized to transact business therein. If said Secretary of State be satisfied with said certificate, and if said company shall have complied with all other provisions of law he shall thereupon issue his certificate of authority to it to transact business in this State, which shall continue in force as provided in Section 14, unless sooner revoked for cause; but no such certificate of authority shall be issued unless such certificate is furnished, nor unless such government shall license life insurance companies incorporated by this State to transact business therein upon a similar certificate from the Secretary of State until such company makes the report required from companies incorporated by this State, and until a valuation of its policies shall have been made by the Secretary of State.

**UNLICENSED COMPANIES MAY NOT ISSUE POLICY.**

Sec. 13. Be it further enacted, etc., No person shall issue or deliver in this State any policy or contract of insurance of such life insurance company which is without a license or after revocation of its license.

**DURATION OF LICENSES.**

Sec. 14. Be it further enacted, etc., All certificates or licenses issued by the Secretary of State to companies or associations of this State or companies or associations existing under the laws of any other State or foreign government, or to any agent of any such company or association shall continue in force until the thirty-first day of March inclusive, next following their issue, unless the same be sooner revoked.

**COMPANIES MUST NOT SOLICIT UNTIL AUTHORIZED.**

Sec. 15. Be it further enacted, etc., It shall not be lawful for any corporation or association organized under other authority than the laws of this State, for the purpose of furnishing life or accident insurance or indemnity upon the assessment plan, to do any business in this State or for any person to do any business within this State as agent in soliciting, procuring, receiving, or transmitting any application for membership or insurance in or for or on behalf of any such corporation or association unless such corporation or association shall be authorized to do business in this State, and such agent shall have received a certificate of authority from the Secretary of State, as hereinafter provided.

**REQUISITES TO OBTAIN LICENSE.**

Sec. 16. Be it further enacted, etc., Any corporation or association organized under the laws of any other State of the United States for the purpose of furnishing life or accident insurance or indemnity upon the assessment plan, or that is carrying on the business of life or accident insurance upon the assessment plan, shall receive from Secretary of State, of this State a license stating that it has complied with the provisions of this Act, and is authorized to do business in this State whenever such corporation or association shall deposit with him a certified copy of its charter or articles of incorporation, a copy of its statement of business for the year ending the thirty-first of the next preceding December, sworn to by the President and Secretary or like officers thereof, setting forth the number and amount of certificates of membership or policies in force, and a detailed account of its expenditures, income, assets and liabilities, and also a certificate sworn to by the President and Secretary or like officers thereof, setting forth the number and amount of certificates of membership or policies in force, and a detailed account of its expenditures, income, assets and liabilities, and also a certificate sworn to by the President and Secretary or like officers thereof, setting forth that it has paid and has the ability to pay its certificates or policies of life insurance upon lives of persons who are more than sixty-five years of age, that its certificates or policies are payable only to beneficiaries having a legal insurable interest in the life of the member or insured; that an ordinary assessment upon its members is sufficient to pay its maximum certificates of membership or policy theretofore issued, if any, or thereafter to be issued to residents of this State, to the full amount or limit named therein; a certificate from the Secretary of State or other like officers charged with the duty of executing the insurance laws of the State, where said corporation or association is organized, certifying that it is legally entitled to do business; and that corporations chartered under the laws of this State, and engaged in the business of life or accident insurance or indemnity on the assessment plan are legally entitled to do business in that State; a copy of the application for membership or insurance and a copy of the form of certificate of membership or policy and each form thereof, if more than one form is used; in the copy of the constitution and by-laws.

**WHAT POLICIES, ETC., MUST SHOW.**

Sec. 17. Be it further enacted, etc., Every policy or certificate issued to a resident of the State of Louisiana by any corporation or association transacting therein the business of life insurance upon the assessment plan, or admitted into this State under the assessment laws of Louisiana shall be printed in black ink and shall have printed in bold type (in red ink) diagonally across the face of every policy or certificate issued upon

the life or lives of the citizens of Louisiana, the words: "Issued upon the assessment plan," and the words, "assessment plan," shall be printed conspicuously (in red ink) in or upon every application, circular, card, advertisement and other printed documents issued, circulated or caused to be circulated by such corporation within the State.

**PENALTY FOR FAILURE TO COMPLY WITH LAW.**

Sec. 18. Be it further enacted, etc., If any such corporation, or association, shall at any time fail or refuse to comply with the foregoing provisions of Section 3 of this Act, the Secretary of State shall forthwith suspend or revoke all authority to such corporation or association and all its agents to do business in this State and shall publish such revocation in Official Journal published in this State.

**CERTIFICATES TO AGENTS.**

Sec. 19. Be it further enacted, etc., After authorizing such corporation or association to do business in this State, as provided in this Act, the Secretary of State shall issue certificates to agents thereof, to be designated by the corporation or association, authorizing them to act as such agents, which shall continue in force, as provided in Section 14, unless sooner revoked for cause.

**EXAMINATION BY SECRETARY OF STATE.**

Sec. 20. Be it further enacted, etc., That the Secretary of State shall examine into the condition, affairs and management of any corporation or association applying for admission or doing business in this State under the provisions of this Act, and the necessary expense of any such examination made or ordered to be made by said Secretary of State shall be certified to by him and paid by the corporation or association so examined. And if upon any such examination or otherwise, the Secretary of State shall at any time ascertain that an ordinary assessment upon the members of any such corporation or association shall not be sufficient to pay its maximum certificate of membership to the full limit, and that assessments made upon its member at the rate at which they are liable to be assessed, together with its available funds, are not sufficient to pay in full its certificates as they become due, or that such corporation or association has failed to pay the maximum amount named in any certificate when it became due, or that it is conducting its business fraudulently, or that it is not carrying out its contracts with its members in good faith, it shall be his duty to refuse such application for admission or forthwith to revoke all authority previously given to such corporation or association, and all its agents, to do business in this State, and publish such revocation in the official journal published in this State.

**INQUIRIES BY SECRETARY OF STATE.**

Sec. 21. Be it further enacted, etc., The Secretary of State is hereby authorized and empowered to address any inquiries he may deem proper to any corporation or association which may be authorized to do business in this State under the provisions of this Act, in relation to its business or condition, and it shall be the duty of the officers of such corporation or association so addressed to promptly reply in writing to all such inquiries under the oath of its President and Secretary or other like officers, and in case of a failure or refusal of such officers to so reply, the Secretary of State may suspend or revoke all authority to such corporation or association and all its agents to do business in this State.

**CERTIFICATES TO CORPORATIONS.**

Sec. 22. Be it further enacted, etc., The Secretary of State, upon application by corporations chartered under the laws of this State, shall issue to such corporation certificates that corporations or societies, chartered by other States, furnishing life or accident insurance or indemnity on the assessment plan who have complied with the provisions of this Act are legally entitled to do business in this State.

**ACTS WHICH CONSTITUTE AGENCY.**

Sec. 23. Be it further enacted, etc., Whoever solicits, procures or receives in or transmits from this State any application other than his own for membership or insurance in any corporation or association authorized by Section 1 shall be deemed and held to be an agent of such corporation or association within the meaning of this Act.

**PENALTY FOR ACTING WITHOUT CERTIFICATE.**

Sec. 24. Be it further enacted, etc., Any person who shall transact business for any corporation or association embraced by Section 1 as an agent thereof within the meaning of this Act, without first procuring and having a certificate of authority from the Secretary of State to act as such agents, or after such certificate of authority has been suspended or revoked shall be fined not less than one hundred nor more than three hundred dollars.

**ANNUAL REPORT TO SECRETARY OF STATE.**

Sec. 25. Be it further enacted, etc., Every corporation or association which may be doing business in this State under the provisions of this Act shall, on or before the first day of March of each year after it commences to do business in this State, make and file with the Secretary of State a report of its affairs and operations during the year ending the thirty-first day of December next preceding. Such annual reports shall be made upon blank forms to be provided and furnished by the Secretary of State; and shall be verified under the oath of the President and Secretary, or other like officers, and shall be published, or the substance thereof, in his annual report, by the Secretary of State.

**FEES.**

Sec. 26. Be it further enacted, etc., Every corporation or association incorporated by or organized under the laws of any other State, and admitted to transact business in this State and each agent of every such corporation or association, shall, when not otherwise provided, pay the same fees to the Secretary of this State as are imposed by such other State upon any similar corporations or associations incorporated by or organized under the laws of this State, or upon the agents of any such corporations or associations transacting business in such other State.

**REFUSAL TO MAKE REPORT.**

Sec. 27. Be it further enacted, etc., If such corporation or association shall, at any time, fail or refuse to make the annual report, or shall neglect for more than thirty days to pay any final judgment rendered against it in the courts of this State, the Secretary of State shall forthwith suspend or revoke all authority to such corporations or association and all its agents, to do business in this State, and shall publish such revocation in the official journal in this State.

**ACT NOT APPLICABLE TO FRATERNAL INSTITUTIONS.**

Sec. 28. Be it further enacted, etc., Nothing in this Act contained shall be construed to apply to any secret or fraternal society, nor to any association organized solely for benevolent and charitable purposes, whose members are employed by one, or by one or more similar corporations or institutions, or whose membership is confined to one trade, art or profession.

**FAILURE TO COLLECT ASSESSMENT.**

Sec. 29. Be it further enacted, etc., Whenever it shall come to the knowledge of the Secretary of State that any company association under his supervision doing business within this State upon the assessment or co-operative plan of insurance or indemnity, has failed to collect the necessary sum by assessment to make full payment of the maximum amount named in any contract, it shall be the duty of the Secretary of State to notify said company or association to cease doing new business, unless it shall thereafter use in the solicitation thereof only such applica-

tion forms in black ink as shall bear, printed in red ink in a conspicuous manner along the margin of said application forms, the words, "It is understood and agreed that the amount to be paid when the certificate is issued upon this application becomes a claim, shall be dependent upon the amount collected from an assessment made to meet such claim," and every company or association shall immediately conform to the provisions of this section whenever so notified. Every company or association violating the provisions of this section shall be fined not less than one hundred nor more than three hundred dollars.

**REPEALING CLAUSE.**

Sec. 30. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act, be, and the same are hereby repealed.

**ADDITIONAL INFORMATION REQUIRED FROM LIFE INSURANCE COMPANIES.**

**Act 87 of 1906, p. 143.**

**TITLE.**

**AN ACT** requiring additional information to be incorporated in the annual reports of life insurance companies doing business in this State, and the publication of an abstract thereof by such companies.

**REAL PROPERTY HELD BY CORPORATION, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in addition to any other matter which may be required by law or pursuant to law by the Insurance Department to be stated therein in every annual report of every life insurance corporation doing business in the State of Louisiana, made pursuant to the law of this State, shall contain an accurate, concise and complete statement of the following matters, to-wit: (1) All the real property held by the corporation, the dates of acquisition, the names of the vendors, the actual cost, the value at which it is carried on the company's books, the market value, the amounts expended during the year for repairs and improvements, the gross and net income from each parcel, and if any portion thereof be occupied by the company the rental value thereof, a statement of any certificate issued by the superintendent extending the time for the disposition thereof, and all purchases and sales made since the last annual statement, with particulars as to dates, names of vendors and vendees, and the consideration.

**LOANS ON REAL ESTATE.**

(2) The amount of existing loans upon the security of real property, stating the amount loaned upon property in each State and foreign country.

**OTHER LOANS.**

(3) The moneys loaned by the corporation to any person other than loans upon the security of real property above mentioned and other than loans upon policies the actual borrowers thereof, the maturity and rate of interest of such loans, the securities held therefor, and all substitutions of securities in connection therewith, and the same particulars with reference to any loans made or discharged since the last annual statement.

**OTHER PROPERTY.**

(4) All other property owned by the company or in which it has any interest (including all securities, whether or not recognized by the law as proper investment), the dates of acquisition, from whom acquired, the actual cost, the value at which the property is carried upon the books, the market value, the interest or dividends received thereon, during the year; also all purchases and sales of property other than real estate made since

the last annual statement, with particulars as to dates, names of purchasers and sellers, and the consideration; and also the income received and outlays made in connection with all such property.

**COMMISSIONS PAID.**

(5) All commissions paid to any person in connection with loans or purchases or sales of any property, and a statement of all payments for legal expenses, giving particulars as to dates, amounts and names and addresses of payees.

**EXPENSES.**

(6) All moneys expended in connection with any matter pending before any legislative body or any officer or department of government, giving particulars as to dates, amounts, names and addresses of payees, the measure or proceeding in connection with which the payment was made, and the interest of the corporation therein.

**NAMES OF OFFICERS.**

(7) The names of the officers and directors of the company, the proceedings at the last annual election, giving the names of candidates and the number of votes cast for each and whether in person, by proxy or by mail.

**SALARIES, ETC., OF OFFICERS.**

(8) The salary, compensation and emoluments received by officers or directors and where the same amounts to more than five thousand dollars that received by any person, firm or corporation, with particulars as to dates, amounts, payees and the authority by which the payment was made; also all salaries paid to any representative either at the home office, or at any branch office, or agency, for agency supervision.

**BANK BALANCES.**

(9) The largest balance carried in each bank or trust company during each month of the year.

**DEATH CLAIMS RESISTED, ETC.**

(10) All death claims resisted or compromised during the year, with particulars as to sums insured, sums paid and reasons assigned for resisting or compromising the same in each case.

**STATEMENT OF PROFITS AND LOSSES.**

(11) A complete statement of the profits and losses upon the business transacted during the year and the sources of such gains and losses, and a statement showing separately the margins upon premiums for the first year of insurance. A foreign corporation, issuing both participating and non-participating policies, shall make a separate statement of profits and losses, margins and expenses, as aforesaid, with reference to each of said kinds of business, and also showing the manner in which any general outlays of the company have been apportioned to each of such kinds of business.

**AMOUNT OF GAINS.**

(12) A statement separately showing the amount of the gains of the company for the year attributable to policies written after December thirty-first, nineteen hundred and six, and the precise method by which the calculation has been made.

**DIVIDENDS DECLARED.**

(13) The rates of annual dividends declared during the year for all plans of insurance and all durations and for ages at entry, twenty-five, thirty-five, forty-five and fifty-five, and the precise method by which such dividends have been calculated.

**RATES OF DIVIDENDS ON POLICIES.**

(14) A statement showing the rates of dividends declared upon deferred dividend policies completing their periods for all plans of insurance and the precise methods by which said dividends have been calculated.

**DEFERRED DIVIDENDS.**

(15) A statement showing any and all amounts set apart or provisionally ascertained or calculated or held awaiting apportionment upon policies with deferred dividend periods longer than one year for all plans of insurance and all durations and for ages of entry as aforesaid, together with the precise statements of the methods of calculation by which the same have been provisionally or otherwise determined.

**RESERVES, ETC.**

(16) A statement of any and all reserves or surplus funds held by the company and for what purpose they are claimed respectively to be held.

**AFFIDAVITS REQUIRED.**

Sec. 2. Be it further enacted, etc., That the life insurance companies authorized to do business in this State, when making their annual report to the Insurance Department shall furnish an abstract of the information required by Section 1 of this Act, signed and sworn to by the President and Secretary, in accordance with a form prepared by the Secretary of State, which must be published by the general agent of the company, at the expense of the company, in two newspapers published in the city of New Orleans and in the official journal of the State, for the period of time required by the laws of this State for legal advertisements.

### **ANNUAL DISTRIBUTION OF SURPLUS BY LIFE INSURANCE COMPANIES.**

**Act 88 of 1906, p. 146.**

**TITLE.**

AN ACT requiring life insurance companies or companies issuing participating policies to make an annual distribution of surplus, and prohibiting life insurance companies issuing participating policies from doing business in this State after January 1, 1907, unless the provisions of this Act are complied with.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That except as herein provided, every domestic life insurance corporation heretofore or hereafter organized, whether incorporated by special act or under a general law, anything in its charter or certificate of incorporation or in such special act or general law to the contrary notwithstanding, shall provide in every policy issued on or after the first day of January, nineteen hundred and seven, that the proportion of the surplus accruing upon said policy shall be ascertained and distributed annually and not otherwise. Upon the thirty-first day of December of each year, or as soon thereafter as may be practicable, every such corporation shall well and truly ascertain the surplus earned by such corporation during said year. After setting aside from such surplus such sums as may be required for the payment of authorized dividends upon the capital stock, if any, and such sums as may properly be held for account of existing deferred dividend policies and for a reasonable contingency reserve, every such corporation shall apportion the remaining surplus equitably to all other policies entitled to share therein. Except in the case of a term or an industrial policy, the share of surplus so apportioned in the case of a policy issued on or after the first day of January, nineteen hundred and seven, shall, at the option of the owner of the policy, be payable in cash, or shall be applicable to the payment of any premium or premiums upon said policy or to the purchase of a paid-up addition thereto or shall be permitted to accumulate to the credit of the policy at such rate of interest

as shall be allowed by the company, and with such interest shall be payable upon the maturity of the policy or shall be withdrawable in cash by the owner of the policy on any anniversary of the date of issue thereof. Such corporation may require the owner of the policy to elect the manner in which said dividends shall be applied as above provided by mailing a written notice of the amount of the said dividends and the options available as aforesaid in a sealed envelope in the manner required for notices of premium payments, and in case the owner shall fail to notify the company in writing of his election within three months after the date of the mailing of said notice, the surplus shall be applied by the company to the purchase of a paid-up addition to the sum insured. In the case of a term or industrial policy issued on or after the first day of January, nineteen hundred and seven, the share of surplus so apportioned shall be payable to the owner of the policy in cash or shall be applicable to the payment of any premium or premiums upon said policy, or if so provided in the policy shall be permitted to accumulate to the credit of the policy at such rate of interest as shall be allowed by the company and in such case shall be payable upon the maturity or expiration of the policy or shall be withdrawable in cash by the holder of the policy on any anniversary of the date of issue thereof. The dividends declared as aforesaid in the case of a policy issued on or after the first day of January, nineteen hundred and seven, shall be payable respectively either upon the anniversary of the policy next after said thirty-first day of December or upon a day certain in the year following said date, according to the rules of the corporation or the terms of the policy, and upon the sole condition that the premium payments for the policy year current upon said thirty-first day of December shall have been completed. This section shall not apply to any stock life insurance corporations which on or after the first day of January, nineteen hundred and seven, shall transact and shall represent itself as transacting its business exclusively upon a non-mutual basis and shall after said date issue only non-participating policies. Nor shall this section apply to paid-up or temporary and pure endowment insurance issued or granted in exchange for lapsed or surrendered policies. A foreign life insurance corporation which shall not provide in every participating policy issued or delivered in this State on or after the first day of January, nineteen hundred and seven, that the proportion of the surplus accruing upon said policy shall be ascertained and distributed annually and not otherwise, and which shall not ascertain and distribute the surplus accruing upon said policies, annually either by providing for their payment in cash or their application to the payment of premiums or to the purchase of paid-up additions or for their accumulation as above provided in the case of domestic corporations shall not be permitted to do business within this State.

## LIFE INSURANCE POLICIES TO CONTAIN ENTIRE CONTRACT.

**Act 227 of 1916, p. 492.**

### TITLE.

**AN ACT** to amend and re-enact Act 52 of 1908, entitled An Act requiring life insurance policies to contain the entire contract between the company and the assured; statements purporting to be made by the assured to be representations and not warranties.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That Act 52 of 1906, an act entitled "An act requiring life insurance policies to contain the entire contract between the company and the assured; statements purporting to be made by the assured to be representations and not warranties," be amended and re-enacted so as to read as follows:

**Sec. 2.** Be it enacted, etc., That every policy of insurance issued or delivered within the State on or after the first day of January, nineteen

hundred and seven, by any life insurance corporation doing business within the State shall contain the entire contract between the parties and nothing shall be incorporated therein by reference to any constitution, by-laws, rules, application or other writings unless the same are endorsed upon or attached to the policy when issued; and all statements purporting to be made by the insured shall in the absence of fraud be deemed representations and not warranties, and no statement or statements not endorsed upon or attached to the policy when issued shall be used in defense of a claim under the policy unless contained in a written application and unless a copy of such statement or statements be endorsed upon or attached to the policy when issued. Any waiver of the provisions of this section shall be void.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

### **MISREPRESENTING TERMS OF POLICIES—PENALTY.**

**Act 107 of 1906, p. 172.**

#### **TITLE.**

**AN ACT** making it a misdemeanor to use estimates or illustrations misrepresenting the terms of policies issued by life insurance companies in this State, and fixing a penalty for the violation hereof.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no life insurance corporation doing business in this State and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or share of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Any violation of this Act by a director, officer or agent of the company or corporation issuing the policy shall make such company or corporation guilty of a misdemeanor and shall be punishable by a fine of not more than one hundred dollars, nor less than twenty-five dollars or imprisonment for not more than ninety days nor less than thirty days.

### **WAIVER OF FORFEITURE OF LIFE, ETC., PREMIUMS.**

**Act 97 of 1908, p. 130.**

#### **TITLE.**

**AN ACT** providing that life, health and accident insurance companies, which issue policies or contracts of insurance to be assured without a medical examination by a physician, shall waive their right to claim forfeiture for misrepresentation, etc., under certain conditions.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever life, health or accident insurance companies, which issue policies or contracts of insurance to the assured without a medical examination of the assured by a physician, it shall be presumed (whenever it appears that the agent of the company has had an opportunity to ascertain the true condition of the health, habits or occupation of the assured, and has certified to the company the desirability of the risk), that the knowledge acquired, or which might have been acquired with reasonable diligence by the agent of the company in securing the application, as to the health, habits or occupation of the assured, has been disclosed to his principal; and it shall also be presumed that the company has waived its rights to claim a forfeiture of the policy based on the ground that the assured did not make true and full answers in the application as to the health, habits or occupation whenever it shall appear that

the agent of the company knew, or might have ascertained with reasonable diligence, the true condition of the applicant's health, or the real facts as to his habits or occupation, knowledge of the agent of the company in writing the application or of the collector of the company in collecting the premiums from the assured, shall be imputed as notice to the company, as to the health, habits or occupation of the assured.

**Note.** This act is inapplicable to a policy "where an examination was made by a physician prior to the issuance of the policy." Hanmore vs. Metropolitan Life Ins. Co., 137 L. 137.

## PROHIBITING FORFEITURE OF POLICIES FOR DEFAULT IN PAYMENT OF PREMIUMS, ETC.

### Act 68 of 1906, p. 108.

#### TITLE.

AN ACT prohibiting life insurance companies from forfeiting policies for default in payment of premiums, interest or installment, unless written or printed notice has been mailed to the policy holder or the assignee of the policy.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no life insurance corporation, etc., doing business in this State, shall within one year after the default in payment of any premium, installment or interest declare forfeited, or lapsed, any policy hereafter issued or renewed, and not issued upon the payment of monthly or weekly premiums, or unless the same is a term insurance contract for one year or less, nor shall any such policy be forfeited, or lapsed, by reason of non-payment when due of any premium, interest or installment or any portion thereof required by the terms of the policy to be paid within one year from the failure to pay such premium, interest or installment, unless a written or printed notice stating the amount of such premium, interest, installment, or portion thereof, due on such policy, the place where it shall be paid, and the person to whom same is payable, shall have been duly addressed and mailed to the person whose life is insured, or the assignee of the policy, if notice of the assignment has been given to the corporation, at his or her last known postoffice address in this State, postage paid by the corporation, or by any officer thereof, or person appointed by it to collect such premium, at least fifteen and not more than forty-five days prior to the day when the same is payable. The notice shall also state that unless such premium, interest, installment or portion thereof, then due, shall be paid to the corporation, or to the duly appointed agent or person authorized to collect such premium by or before the day it falls due, the policy and all payments thereon will become forfeited and void except as to the right to surrender value, extended insurance, or paid-up policy. If the payment demanded by such notice shall be made within its time limited therefor, it shall be taken to be in full compliance with the requirements of the policy in respect to the time of such payment; and no such policy shall in any case be forfeited, or declared forfeited, or lapsed, until the expiration of thirty days after the mailing of such notice. The affidavit of any officer, clerk or agent of the corporation, or of anyone authorized to mail such notice that the notice required by this section, has been duly addressed and mailed by the corporation issuing such policy shall be presumptive evidence that such notice has been duly given. No action shall be maintained to recover under a forfeited policy, unless the same is instituted within two years from the day upon which default was made in paying the premium, installment, interest or portion thereof for which it is claimed that forfeiture ensued.

**Note.** Conditions under which the limitation of right of action mentioned in the act will prevent recovery on the policy. Watson vs. Mutual Life Ins. Co., 139 L. 737.

**ENDOWMENT POLICIES NON-FORFEITABLE AFTER  
THREE ANNUAL PREMIUMS.****Act 193 of 1906, p. 346.****TITLE.**

AN ACT making life or endowment insurance policies issued by legal reserve life insurance companies, or associations, to residents of this State non-forfeitable after January first, nineteen hundred and seven, after three years' premiums have been paid and providing penalties for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That every contract or policy of life or endowment insurance (other than a term policy for twenty years or less) issued on the life of a resident of this State by any corporation or association organized under the legal reserve laws of this State, or of any other State and delivered within this State, shall, after January first, nineteen hundred and seven, contain a stipulation that after three full annual premiums have been paid thereon it shall not lapse or become void or be forfeited for non-payment of any premium thereafter, or of any note therefor, or of any loan on such policy, or of any interest on such note or loan, and that it is issued subject to the provisions of this Act relating to non-forfeiture.

**Sec. 2.** Be it further enacted, etc., That no policy of life or endowment insurance (other than a term policy for twenty years or less) is sued by any legal reserve life insurance company on or after January first, nineteen hundred and seven, after being in force three full years shall by its terms lapse or become forfeited by the non-payment of any premium or any note therefor, or of any loan on such policy or of any interest on such note or loan. The reserve on such policy computed according to the standard adopted by said company, together with the value of any dividend additions upon said policy, after deducting any indebtedness to the company and one-fifth of the said entire reserve, shall upon demand with surrender of the policy be applied as a surrender value as agreed upon in the policy, provided that if no other option expressed in the policy be availed of by the owner thereof, the same without any further act on the part of the owner of the policy, shall be applied to continue the insurance in force at its full amount including any outstanding dividend additions less any outstanding indebtedness on the policy, so long as such surrender value will purchase non-participating temporary insurance at net single premium rates by the standard adopted by the company, at the age of the insured at the time of lapse or forfeiture, provided in case of any endowment policy if the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in the policy, the excess shall be used to purchase in the same manner pure endowment insurance payable at the end of the endowment term in the policy on the conditions on which the original policy was issued, and provided further that any attempted waiver of the provisions of this paragraph in any application, policy or otherwise, shall be void, and provided further that any value allowed in lieu thereof shall be at least equal to the net value of the temporary insurance or of the temporary and pure endowment insurance herein provided for. The term of temporary insurance herein provided for shall include the period of grace, if any.

**Sec. 3.** Be it further enacted, etc., That if any life insurance company or association, shall deliver to any resident of this State a policy of life or endowment insurance upon his life not in conformity with the provisions of this Act after January first, nineteen hundred and seven, the right of such company, or association, to do business in this State shall be forfeited, and the Secretary of State is authorized to revoke its authority in the manner already provided for the revocation of insurance companies' authority when failing to comply with the laws of this State.

Sec. 4. Be it further enacted, etc., That the provisions of this Act shall become effective after January first, nineteen hundred and seven, and all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## DISBURSEMENTS OF LIFE INSURANCE COMPANIES TO BE EVIDENCED BY VOUCHER.

**Act 56 of 1906, p. 89.**

### TITLE.

**AN ACT** requiring domestic life insurance corporations to have disbursements of one hundred dollars or more evidenced by voucher signed by the person receiving the money.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no domestic life insurance corporation, shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm or corporation receiving the money and correctly describing the consideration for the payment, and if the same be for services and disbursements setting forth the services rendered and an itemized statement of the disbursements made, and if it be in connection with any matter pending before any legislative or public body or before any department or officer of any government, correctly describing in addition the nature of the matter and of the interest of such corporation therein, or if such a voucher cannot be obtained by an affidavit stating the reasons therefor and setting forth the particulars above mentioned.

## TO PREVENT DISCRIMINATION BY LIFE, ETC., INSURANCE COMPANIES.

**Act 96 of 1906, p. 162.**

### TITLE.

**AN ACT** to prevent discrimination by life insurance and benefit companies or corporations of other States or countries against policy or contract holders, or beneficiaries who are citizens or residents of this State, and to extend to every citizen or resident of this State taking out or holding life insurance policies or benefit contracts issued by companies or corporations of other States or countries the full benefit of all statutes and legal enactments in such other States or countries in behalf of policy or contract holders of the State or countries wherein the company or corporation issuing such policies or contracts is domiciled; and to place citizens of this State upon an equality with the citizens of the States and countries in which the assurer is domiciled in the interpretation, performance and enforcement of such life insurance policies and benefit contracts.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every policy of life insurance and every benefit contract issued by any life insurance or benefit company, or corporation domiciled in any other State or country, if the assured or the beneficiary named therein is a citizen or resident of this State at the time the policy is issued, shall as to all rights, privileges or duties of the insurer, the insured or the beneficiary therein be so interpreted, performed and enforced, as to give, accord and extend to such assured or beneficiary named therein and all parties legally representing or claiming through such original parties, the benefit of all legislative or legal enactments of any sort within the State or country where the company or corporation issuing such policy or benefit contract is domiciled.

**Sec. 2.** Be it further enacted, etc., That all laws and parts of laws in conflict with this act, be and the same are hereby repealed.

**Note.** A change of beneficiary is not effected until notice thereof has been endorsed thereon by the company at its Home office—where the policy so provides. The insurance of one's life for the benefit of another having no insurable interest therein is not contrary to the public policy of this State. New York Life Ins. Co. vs. Murtagh, 137 L. 780 (citing cases from this and other States).

## DISCRIMINATION BETWEEN POLICY HOLDERS PROHIBITED.

**Act 210 of 1908, p. 314.**

### **TITLE.**

**AN ACT** to prevent discrimination between policyholders of Life Insurance Companies doing business in the State of Louisiana, by the sale of special contracts or other inducements under the pretense of making such holders agents of the company, and providing penalties for the enforcement of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any life insurance company, operating within the State of Louisiana, to discriminate between its policy holders by allowing, or agreeing to allow any policy holder, whether as an individual or as a member of a class, a portion or per cent. of any premium or premiums collected by said company from any policy holder or policy holders on the pretense of making such policy holder an agent of the company, either as an individual, member of a firm or partnership, or stockholder in an agency, corporation, or otherwise, unless such policy holder regularly qualifies as agent of the company under the laws of Louisiana governing the same, and is instrumental in actually securing business for the company, as evidenced by his name appearing on the application or applications of other policy holders, as soliciting agent, and his compensation for such services being limited to a reasonable commission on the business thus secured by that company through his instrumentality.

**Sec. 2.** Be it further enacted, etc., That any company which violates any provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars for each offense, and shall have its license to do business within this State revoked; and any agent who acts in this State by selling or offering such contracts or inducements for such corporation violating this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than one hundred dollars or not more than three hundred dollars for each offense, or shall be imprisoned for not less than thirty days or not more than ninety days.

## DELAY OF PAYMENT UNDER LIFE AND ACCIDENT POLICIES.

**Act 310 of 1910, p. 527.**

### **TITLE.**

**AN ACT** providing the time of payment, of indemnities, by life, health and accident insurance companies, which issue policies or contracts of insurance, indemnifying the assured in cases of illness or accident, upon due notice to the company, of the disability of the assured; providing a penalty for the violation of the provisions of this Act; declaring conditions in such policies or contracts, in violation of the provisions of this Act, null, void and of no effect, and fixing the jurisdiction for trial of violations of this Act.

**MATURITY OF PAYMENTS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no life, health or accident insurance company shall write policies or contracts of insurance, in this State, insuring any person against loss on account of sickness or accident, wherein payment of or indemnities shall be deferred longer than thirty days from written notice, and proof to the company, by the attending physician, in the form required by the terms of such policy or contract of insurance, informing the company of such sickness or accident, entitling the assured to payment under the terms of such policy or contract.

**GROUND FOR DELAY.**

Sec. 2. Be it enacted, etc., That payment by such companies to the assured shall not be delayed for a longer period than thirty days from due notice and proof of disability, without just and reasonable grounds such as to put a reasonable and prudent business man on his guard.

**PENALTIES FOR DELAY.**

Sec. 3. Be it enacted, etc., That the insurance company guilty of such delay in payment, unless upon just and reasonable grounds, shall pay to the assured, as a penalty, double the amount due under the terms of the policy or contract, during the period of delay, with attorney's fees to be determined by the tribunal before whom suit is instituted.

**JURISDICTION.**

Sec. 4. Be it enacted, etc., That the court of the parish where the claimant lives or his domicile shall have jurisdiction to try such cases.

**PAYMENTS EVERY THIRTY DAYS.**

Sec. 5. Be it enacted, etc., That after notice provided for in Section 1 of this Act, shall have been given, it shall be the duty of the insurance company, thereafter, to make payment every thirty days, to the assured during that part of the period of his disability, covered by such policy or contract of insurance during which the assured is entitled to recovery.

**VIOLATIONS DECLARED A MISDEMEANOR.**

Sec. 6. Be it enacted, etc., That any life, health or accident insurance company, in this State, violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof, in addition to the penalty prescribed in Section 2 of this Act, pay a fine of not less than one hundred and fifty dollars nor more than five hundred dollars, at the discretion of the court, for the first offense, and upon conviction of a second offense shall have its license to do business in this State revoked.

**REPEALING CLAUSE.**

Sec. 7. Be it enacted, etc., That all laws and parts of laws contrary to or in conflict herewith are hereby repealed.

Sec. 8. Be it enacted, etc., That this Act shall take effect from and after its passage.

**SOLICITORS FOR LIFE INSURANCE COMPANIES ARE NOT AGENTS OF APPLICANTS.**

**Act 94 of 1906, p. 156.**

**TITLE.**

**AN ACT** prohibiting foreign and domestic corporations issuing policies of life insurance, from stipulating in any application, policy or certificate of insurance, that the person soliciting such insurance, or any person who is engaged in soliciting for the company issuing such policy is the agent of the person insured, and prohibiting them from inserting in said application, policy or certificate of insurance any provision to make the acts or representations of said person or persons binding upon the person insured and providing penalties for its violation.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no corporation issuing policies of insurance upon the lives of persons, whether such corporation is a domestic one, existing under the laws of the State, or a foreign one which has become entitled to do business within the State shall, after this law shall take effect, provide in any application, policy or certificate of insurance, that the person soliciting such insurance, or any person who is engaged in the business of soliciting insurance for the company issuing such policy, or certificate, and whose compensation is either paid by said company, or is contingent upon the issuing of such policy, is the agent of the person insured under said policy or certificate, or shall insert in said policy or certificate any provision to make the acts or representations of such person binding upon the person so insured under said policy or certificate.

**Sec. 2.** Be it further enacted, etc., That any company violating the provisions of this Act shall forfeit its authority to do business in this State, and the Secretary of the State shall revoke its authority in the manner provided for the revocation of the authority of companies violating the laws of the State.

## **FALSE STATEMENTS, ETC., CONCERNING LIFE INSURANCE COMPANIES.**

**Act 205 of 1914, p. 391.**

### **TITLE.**

AN ACT making it a misdemeanor to make, circulate or transmit false statements, rumors, reports or suggestions written, printed or spoken concerning the financial condition of any life insurance company, fire insurance company organized under the laws of the State of Louisiana, and derogatory to the same, and to provide for the punishment of said misdemeanor.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any person who shall willfully circulate or transmit any false statement, rumor, report or suggestion, written, printed or spoken, concerning the financial condition of any life insurance company, fire insurance company organized under the laws of the State of Louisiana, and derogatory to the same, shall be guilty of a misdemeanor and be punished by a fine of not more than one thousand dollars or imprisonment not exceeding twelve months, or both at the discretion of the court.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its promulgation, and all laws in conflict herewith be and the same are hereby repealed.

## **CONDITIONS ON WHICH FOREIGN FIRE INSURANCE COMPANIES MAY DO BUSINESS IN THIS STATE.**

**Act 295 of 1914, p. 603.**

### **TITLE.**

AN ACT to declare and define the conditions upon which foreign Fire Insurance Companies, Corporations or Associations doing business in this State may engage and carry on business in this State, and to provide for the distribution of funds arising from compliance with this act.

### **MUST COMPLY WITH LAW.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no fire insurance company, corporation or association not incorporated by the laws of this State shall carry on any fire insurance

business in this State, save and except upon compliance with the conditions in this act as hereinafter imposed as well as all other conditions now or hereafter imposed by law.

#### REPORT OF PREMIUMS RECORDED, ETC.

Sec. 2. Be it further enacted, etc., That every fire insurance company, corporation or association incorporated under the laws of any other State, or any foreign government or country, now or hereafter desiring to engage in or carry on business in this State, shall return to the Secretary of State of the State of Louisiana, a just and true account, verified by oath of the proper officer, that the same is a true account of all premiums received from fire insurance business done during the year ending December 31st of each year in any incorporated town, city or village of this State having or that may have a regularly organized fire department under the control of the Mayor and Council or other constituted authority and having in serviceable condition for fire duty fire apparatus and necessary equipments belonging thereto to the value of \$1,000 and upward. Such returns must be made by said companies, corporations or associations within sixty days after the promulgation of this act and thereafter within sixty days after the 31st day of December of each year.

#### TAX ON PREMIUM RECEIPTS.

Sec. 3. Be it further enacted, etc., That every fire insurance company aforesaid shall within sixty days after approval of this Act and thereafter within sixty days after the 31st day of December of each year, deliver and pay to the State Treasurer the sum of \$1 upon the \$100, and at that rate upon the amount of all premiums written on fire insurance within the limits of such incorporated cities, towns or villages during the year ending December 31st in each preceding year or for such portion of such period as said company, corporation or association shall have done business in this State.

#### COMPANIES MUST KEEP ACCURATE BOOKS.

Sec. 4. Be it further enacted, etc., That every such company, corporation or association shall keep accurate books of account of all business done by them on fire insurance within the limits of such incorporated city, town or village, and in case of failure of compliance with this act, or fraud or dishonesty in such returns as provided for in Section 2 of this act, made by such company, corporation or association shall be apparent it shall be the duty of the Secretary of State to investigate such returns and collect the amount which he shall find to be due.

#### FAILURE TO KEEP BOOKS.

Sec. 5. Be it further enacted, etc., That every such company, which shall neglect to keep such books of account as aforesaid or shall fail or neglect to report or pay over any of the money due on premiums as aforesaid at the time and in the manner specified in the preceding sections of this act or who shall be found upon examination to have made a false return of business done by them shall for each such offense forfeit the sum of \$500 to be applied for the purposes hereinafter prescribed in this act.

#### DEFAULT IN PAYMENT OF TAXES, ETC.

Sec. 6. Be it further enacted, etc., That in case of making a default in payment or in case of failure to pay or satisfy any forfeiture adjudged to be due by the provisions of this act, the Secretary of State of the State of Louisiana shall forthwith revoke the license of such company, corporation or association to do business in this State and after such revocation it shall be unlawful for such company, corporation or association to do business in this State. Provided, That the Secretary of State may upon compliance by such company, corporation or association with the requirements of this act permit it to do business in this State.

**TAX GOES TO LOCAL FIRE DEPARTMENT.**

**Sec. 7.** Be it further enacted, etc., That the State Treasurer shall pay over to the Treasurer of the cities, towns, or villages having or that may hereafter have a regular organized fire department, as aforesaid in Section 2 of this act, the full and respective amounts collected upon the premiums on business done in each of said cities, towns or villages, respectively, from the foreign insurance companies, corporations or associations doing business therein. Provided, That the monies so paid over to and received by the said cities, towns or villages shall be by them respectively set apart and used solely and entirely for the objects and purposes of this act.

**WHEN TAX MUST BE PAID TO FIRE DEPARTMENT.**

**Sec. 8.** Be it further enacted, etc., That all money so collected and received under the provisions of this act by the Treasurer of any incorporated city or town or village, shall within thirty days from the time said moneys are received as aforesaid be paid over by said Treasurer to the Secretary-treasurer, Treasurer, or other fiscal representatives of the organized fire department, of said city, town or village. Provided, That all such moneys derived under the provisions of this act shall be used for the purpose of rendering more efficient and efficacious the fire department of said city, town or village as the Board of Commissioners, Fire Board or other governing body of said department shall see fit and direct, and for no other purpose whatsoever.

**REPEALING CLAUSE.**

**Sec. 9.** Be it further enacted, etc., All Acts or parts of Acts conflicting with or inconsistent with the provisions of this act be and the same are hereby repealed.

**Note.** The payment required of Insurance Companies under this Act is not a tax. The Act does not violate Const. Arts. 31, 45, 58, 224, 227. *Citizens' Ins. Co. vs. Mebert*, 139 L. 708.

**LLOYDS ASSOCIATIONS.**

**Act 112 of 1912, p. 181.**

**TITLE.**

**AN ACT** to define how certain marine and inland insurance organizations, known as Lloyds Associations, may be entitled to do business in this State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever any number of individuals, citizens of the United States, associate themselves within this State or elsewhere, for the purpose of doing a marine insurance business upon the plan known as Lloyds, whereby each associate underwriter becomes liable for a proportionate part of the whole amount insured by a policy executed by them, shall deposit with the Treasurer of the State of Louisiana or with some similar authority in the State where it is domiciled, or with any bank or trust company of the United States, approved by the Secretary of State of this State, one hundred thousand dollars in cash securities approved by the Secretary of State of this State, for the security and benefit of the holders of policies issued by them, and shall cause a report to be made under oath of their financial standing and of the character and value of their assets, which report shall be attested by the general manager or attorney in fact of said individuals, together with a statement of the business done by them during the year next preceding such statement, in the same manner and form and at the same time as is now required by law of marine insurance companies organized under the laws of this State and other States and countries; providing that if such organization shall be possessed of cash on hand and guarantee subscriptions of the underwriters after deducting all liabilities, except reinsurance reserve, of a sum not less than one hundred thousand dollars, and that the re-insurance reserve be

calculated on a basis of fifty per cent. of the premiums in force, and that evidence shall be furnished to the Secretary of State, that the underwriters are men of good financial standing, responsible for their obligations, and that the organization does not issue policies of insurance on any one risk in greater sums than one-fifth of the aggregate of the subscription of the several underwriters or the amount to which they may become liable, the Secretary of State shall license them under similar requirements as are now prescribed for the admission of marine and inland insurance companies organized under the laws of other States of the United States, so far as they may reasonably apply.

## DEALING WITH UNAUTHORIZED MARINE COMPANIES PROHIBITED.

**Act 66 of 1894, p. 77.**

### TITLE.

**AN ACT** to prevent persons, corporations or firms from dealing with marine insurance companies that have not complied with law.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any person, firm, or corporation who shall fill up, sign, or issue in this State any certificate of insurance under an open marine policy, or who in any manner whatever does any act in this State to effect, for himself or for another, insurance on property then in this State, in any marine insurance company which has not complied in all respects with the laws of this State, shall be subject to a fine of one thousand dollars, for each offense, which shall be sued for in any competent court by the Attorney General for the use and benefit of the Charity Hospitals in New Orleans and Shreveport.

**Sec. 2.** Be it further enacted by the General Assembly of the State of Louisiana, That all laws or parts of laws in conflict herewith are hereby repealed.

**Note.** The Act does not violate either the Federal or the State Constitution. The State may forbid its citizens from doing in the State any act which violates its laws, and if one takes out an open marine policy in a company domiciled out of the State, and which has not complied with the laws of this State, he is liable for the penalty imposed by this Act. Mailing letters or sending telegrams by which each shipment is insured is a violation. *State vs. Allgeyer*, 48 A. 101—Reversed. *Allgeyer vs. State*, 145 U. S. 578.

## REPORTS OF FIRE INSURANCE COMPANIES.

**Act 225 of 1914, p. 423.**

### TITLE.

**AN ACT** requiring every fire insurance company authorized to do business in Louisiana to file annually with the Secretary of State on a form furnished by him a tabulated statement showing a complete classification of its premium receipts and losses in this State for the previous year, as well as the amount insured under each particular class.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That each and every Fire Insurance Company authorized to do business in this State shall file annually not later than March 1st with the Secretary of State on a form furnished by him, a statement, in addition to that now required by law, of all business done in the State of Louisiana during the year ending December 31st next preceding, showing a complete tabulated classification of its net premium receipts after deducting reinsurance and return premiums, and its net losses after deducting reinsurance collected for the said year, including the amount insured under each of said classes.

**Sec. 2.** Be it further enacted, etc., That the Secretary of State shall refuse to grant a certificate of authority to any company failing to comply with the provisions of Sections 1 and 2 of this act.

**Section 3.** Be it further enacted, etc., That all laws and parts of laws in conflict herewith are hereby repealed.

## **COMBINATIONS FOR RATE MAKING PROHIBITED.**

**Act 224 of 1912, p. 509.**

### **TITLE.**

AN ACT to prevent Fire Insurance Companies, Associations, Partnerships doing business in this State, or the Agents of said companies, associations or partnerships from entering into combinations to control or make rates for fire insurance on property situated in this State and providing for the violation of this act; provided, that nothing herein contained shall be construed as repealing Act 189, of 1904.

### **COMBINATIONS, ETC., FOR RATE MAKING.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, convened, That it shall be unlawful for any Fire Insurance Companies, Associations or Partnerships, doing a fire insurance business in this State, to enter into any combination or compact with other fire insurance companies, associations or partnerships, doing a fire insurance business in this State, to enter into any combination or compact with other fire insurance companies, associations or partnerships, or to require or to allow their agents to enter into any combinations or compact with other fire insurance agents, companies, associations, or partnership, for the purpose of governing, controlling or influencing the rates charged for insurance on property situated in this State; provided, that nothing herein shall be construed to prohibit one or more companies from employing a common agent or agents to supervise and advise of defective structures or to suggest improvements to lessen fire hazard.

### **ANNUAL AFFIDAVIT TO THAT EFFECT.**

**Sec. 2.** Be it further enacted, etc., That all fire insurance companies, associations, or partnerships doing a fire insurance business in this State, shall cause to be filed on the first day of December, 1912, and on the first day of December of each year thereafter, with the Secretary of State, the affidavit of some officer or agent of company, associations or partnerships, who resides in this State, setting forth the fact that the company, association or partnership of which he is an officer or agent, has not in twelve months previous to the said affidavit, entered into any trust, combination or association for the purpose of preventing competition in insurance rates or of governing, controlling or influencing insurance rates in this State; the said affidavit shall be made before some officer of this State authorized to administer oaths, and any false statement in said affidavit shall be deemed perjury.

Provided, that the affidavit must be made on December first, 1912, need only state that the provisions of this Act have not been violated from the time of its promulgation to the date of the affidavit; provided, further, that any attempt to evade the provisions of this Act by agreeing upon any person or number of persons for the purpose of making rates for all such insurance companies, associations or partnership by buying rate books shall be deemed a violation of this Act, and shall be punishable as herein provided.

### **VIOLATION OF ACT—EXAMINATION.**

**Sec. 3.** Be it further enacted, etc., That whenever the Secretary of State in his judgment, has good reason to believe that any fire insurance company, association or partnership, has violated the provisions of this Act, he is authorized and it is hereby made his duty at the expense of the said company, association or partnership, to examine at the office or offices of said company, association or partnership, all its books, records and papers, and place any officer thereof under oath as to such violations.

**PENALTIES IMPOSED.**

Sec. 4. Be it further enacted, etc., That any fire insurance company, association or partnership, violating the provision of this Act shall forfeit the privilege of doing business in this State for the unexpired term for which it was originally licensed, and for the twelve (12) months next following thereafter. The secretary of State shall immediately upon the violation of any of the provisions of this Act, revoke the license already issued to such company, association or partnership, to do business, and publish notice of such revocation and all contracts of insurance entered into after the revocation of such license shall be null and void; and any premiums so received by any fire insurance company, association or partnership after such published notice of revocation, shall be returned to the person or persons, making such payments; and provided further, that in case of loss by fire before the return of such premiums, the company, association or partnership, shall not be relieved of their contract obligation.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., All laws and parts of laws in conflict with this Act are hereby repealed; provided, that nothing herein contained shall be construed as repealing Act 189, of 1904.

Note. Act 110, 1900, p. 172 is identical in its provisions with this act, except that the later act provides that nothing therein contained shall be construed as repealing Act 189, 1904. The Act of 1904 is the Fire Prevention Bureau Act printed at p. 985. Act 219, 1910, p. 356, establishing a State Insurance Rating Board was repealed by Act 143, 1912, p. 194.

**CO-INSURANCE CLAUSE PROHIBITED.****Act 187 of 1908, p. 478.****TITLE.**

AN ACT prohibiting the use of the co-insurance clause in policies of insurance covering losses on property in this State from fire, lightning or windstorm, except where the policies cover only personal or movable property, and such policies are stamped on the face and back thereof to show that they are subject to the co-insurance clause.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no insurance policy hereafter issued by any insurance company authorized to do business in this State, shall contain any clause or provision requiring the assured to take out or maintain a larger amount of insurance than that covered by such policy, nor in any way providing that the assured shall be liable as co-insurer with the company issuing the policy for any part of the loss or damage which may be occasioned by fire, lightning or windstorm to the property located in this State covered by such policy, nor making provisions for a reduction of such loss or damage, or any part thereof by reason of the failure of the assured to take out and maintain other insurance upon said property. And all clauses and provisions in such insurance policy, issued after the taking effect of this Act, in contravention of the prohibitions in this Act contained, shall be ab initio void and of no effect; provided, that the provisions of this Act shall not apply to policies issued upon personal or movable property whenever the said policies are stamped on the face and back of the policy as follows:

"This policy is issued subject to the conditions of the co-insurance clause attached hereto."

Note. Before the enactment of this statute it was held that an owner, whose immovable property is insured for less than seventy-five per cent of its value is a co-insured for the deficit, where the policy contains a clause to that effect. Act 135, 1900, does not prohibit the making of such a contract. Simon et al. vs. Queen Ins. Co. 120 La. 477.

The owner of insured property destroyed by fire is without right to waive the benefit of this act, and agreed to an adjustment on the basis of three-fourths of the value of the property destroyed, to the prejudice and without the knowledge and consent of a mortgage creditor to whom the policy is made payable as interest may appear. The mortgage creditor may sue to recover without a direct action to set aside the adjustment. Liability for twelve per cent, statutory damages and a reasonable attorneys fees. Tilley vs. Camden Fire Ins. Assn., 139 L. 985.

**VALUED POLICY LAW.****Act 135 of 1900, p. 209.****TITLE.**

**AN ACT** to fix the value of immovables by nature insured against loss or damage by fire, in case of loss or damage by fire.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana in General Assembly convened, That whenever any policy of insurance against loss by fire is hereafter written or renewed, on property immovable by nature and situated in this State, and the said property shall be either partially damaged or totally destroyed, without criminal fault on the part of the insured or his assigns, the value of the property as assessed by the insurer or as by him permitted to be assessed at the time of the issuance of the policy, shall be conclusively taken to be the true value of the property at the time of the issuance of the policy and the true value of the property at the time of the damage or destruction; provided, that nothing herein shall be so construed as to prevent the insurer previous to the damage or destruction of property from reducing the insurance thereon.

**Sec. 2.** Be it further enacted, etc., That whenever any policy of insurance against loss by fire, is hereafter written or renewed on property situate in this State, and the said property shall be totally destroyed without criminal fault upon the part of the insured or his assigns, the full amount of the insurance on the property so destroyed shall be paid by the insurer, and that when the said property shall be partially damaged, without criminal fault on the part of the insured or his assigns, the insurer shall pay to the insured such amount as will permit the insured to restore the damaged property to its original condition; provided, that nothing herein shall be so construed as to prevent the insurer from replacing property partially damaged or totally destroyed at his own expense and without contribution on the part of the insured.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with this Act are hereby repealed.

**Note.** Sect. 2 of the act is merely complementary of Sect. 1 and the two sections considered together, the act must be held to relate exclusively to policies of Fire Insurance covering property which is immovable by nature. *Melancon vs. Phoenix Ins. Co., 116 L. 324.* (The case considers questions relating to proofs of loss, their waiver, etc.). See note to Act 107, 1908, *infra*. Notes to Act 105, 1908, on p. 927, et seq.

**THREE-FOURTH VALUE CLAUSE.****Act 148 of 1894, p. 187.****TITLE.**

**AN ACT** to fix and determine the liability of insurance companies, under contracts of fire insurance to take effect on immovable property situated in this State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana in General Assembly convened, That in all contracts of fire insurance which hereafter be entered into and which are intended to take effect on property immovable by nature or destination situated within this State, the insurer shall pay to the insured in case of total loss the total amount for which the property is insured in the policy or policies provided the insurance is not in excess of the value of the property, or does not exceed three-fourths the value of the property where the three-quarter clause has been made a part of the contract.

**Sec. 2.** Be it further enacted, etc., That in the event of damage or partial loss the insurer shall pay to the insured the face value of the policy or policies not however in excess of the actual amount of damages sustained or in excess of three-fourths the value of the property where the three-quarter clause has been made a part of the contract.

**Sec. 3.** Be it further enacted, etc., That any clause, condition or provision made in any policy of insurance subsequent to the promulgation of this Act contrary to this Act shall be null and void.

**Sec. 4.** Be it further enacted, etc., That all laws or parts of laws in conflict with this Act are hereby repealed.

### THREE-QUARTER COUNTRY CLAUSE.

**Act 183 of 1898, p. 350.**

#### TITLE.

**AN ACT** to regulate the enforcement of the three-quarter clause in fire insurance policies in this State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in the enforcement of the three-quarter country clause of any fire insurance policy for any loss thereunder in this State, that in all cases where the insurer elects to replace movable property in kind or to rebuild or repair immovable property, rather than to pay the loss in money, it shall not be lawful to require the assured to contribute any portion of the cost of such replacing, rebuilding or repairing.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

### REFUND OF PREMIUMS BY FIRE INSURANCE COMPANIES.

**Act 149 of 1888, p. 209.**

#### TITLE.

**AN ACT** requiring fire insurance companies to refund premiums exacted on the difference between amounts for which real property is assessed and the amounts adjudged due in case of total loss by fire, together with legal interest on such premiums from date of their payment.

Be it enacted by the General Assembly of the State of Louisiana, That fire insurance companies doing business in the State shall refund to the insured all premiums collected on the difference and agreed to be paid and the amount of the judgment rendered against said company in case of total loss by fire, together with legal interest on such premiums from date of their payment.

### FEES OF ADJUSTERS.

**Act 314 of 1908, p. 481.**

#### TITLE.

**AN ACT** prohibiting insurance companies, doing business in this State, from paying the insurance adjusters or to companies engaged in the adjustment of losses, any fee or compensation in excess of a regular salary or stipend and providing penalties for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That hereafter it shall be unlawful for any insurance company, doing business in this State, to pay to insurance adjusters or to companies engaged in the adjustment of losses, any fee or compensation in excess of a regular fixed salary or stipend, or to contract to pay to any insurance adjuster or to any company engaged in the business of adjusting losses, any portion of the amount saved to said insurance company, through the efforts of said adjuster or adjustment company, in lieu of salary.

**Sec. 2.** Be it further enacted, etc., That any insurance company violating any provisions of this Act shall, on conviction before any court of competent jurisdiction, be fined a sum not less than five hundred dol-

lars (\$500.00), for the benefit of the Charity Hospitals of New Orleans and Shreveport.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with or contrary to the provisions of this Act be, and the same are hereby repealed.

**Note.** Act 182 of 1904, printed under title "Corporations," prohibits corporations not domiciled in Louisiana from forming combinations to prevent representatives in Louisiana from accepting compensation greater than the corporations pay, etc.

## **PROOF OF LOSS—FIRE INSURANCE COMPANIES.**

### **Act 168 of 1908, p. 226.**

#### **TITLE.**

AN ACT relative to fire insurance; directing fire insurance companies to furnish blanks for proof of loss; providing the effect of failure to furnish same; requiring fire insurance companies to promptly adjust losses and to pay the amount due under their policies and specifying a penalty for failure to pay the amount due under their policies within sixty days after the receipt of proofs of loss from the insured; requiring copies of this Act be furnished the assured which is to be considered a part of the policy contract; and declaring conditions in policies in violation of this Act to be void and of no effect.

#### **NOTICE OF LOSS BLANKS FOR PROOF.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever any loss or damage shall be suffered in this State from fire, by any person, firm or corporation, upon property insured under a policy of insurance of any fire insurance company doing business in this State, and notice of the fact that such loss or damage has occurred shall be given by the person, firm or corporation incurring the same, or the agent thereof, to the insurance company issuing such policy, or to the agent thereof nearest the place of loss, immediately after the date of such loss or damage—the limit to which reasonable time shall be mentioned in said policy and made a part thereof at the time of issuing the same, but the time fixed in the policy shall not be taken or construed to be a condition precedent to the right of recovery—then it shall thereupon become the duty of such insurance company to furnish to the person, firm or corporation incurring such loss or damage, such reasonable blank forms of statements and proofs of loss as such insurance company may desire to be filled out, in regard to the time, origin and circumstances of the fire causing such loss or damage, and the knowledge and belief of the insured touching the same, the lists and description and quantity of property destroyed or damaged, and of property saved, and the original cost of such property, and the cash value thereof at the time of the fire, the details as to possession, ownership, title, and incumbrances, and changes of title, use, occupation, location and exposure since the time of issuing such policy, if any, and other insurance, if any, and description and schedules of such policy.

#### **FAILURE TO FURNISH BLANK PROOF.**

**Sec. 2.** Be it further enacted, etc., That if any such fire insurance company shall fail, neglect or refuse to furnish blank forms of statements and proofs of loss to the insured, in case of loss or damage by fire, as provided in the preceding section, then such company shall be deemed to have waived the requiring of any statement or proofs of loss at the hands of such insured person, firm or corporation, and upon suit brought upon such policy, such insurance company shall not be heard to complain of the failure of the insured to furnish any such statement or proofs of loss, any provision in any such policy of insurance to the contrary notwithstanding.

#### **WHEN LOSS MUST BE PAID.**

**Sec. 3.** Be it further enacted, etc., That whenever any loss or damage shall be suffered in this State from fire by any person, firm or cor-

poration upon property insured under a policy of insurance of any fire insurance company doing business in this State, it shall be the duty of the fire insurance company that has issued the policy or policies upon receipt of proofs of loss from the assured, to pay the amount due under its policy or policies, within sixty days thereafter, or if the said proofs of loss are not satisfactory to the company, it shall be the duty of the company to proceed under the terms of the policy or policies to ascertain and adjust the amount of the loss and its liability under its policy or policies and to make payment of the amount due under the policy or policies to the insured within sixty days from the date upon which it received the proofs of loss offered by the assured, and should the company fail to pay, within said time the amount due the insured under the policy after demand made therefor, such company shall be liable to pay the holder or holders of such policy in addition to the amount of the loss, 12 per cent damages on the total amount of the loss as may be determined by a court of competent jurisdiction, together with all reasonable attorney's fees for the prosecution and collection of such loss; provided that whenever the insurance company shall pay to the insured within sixty days from the date upon which it received the proofs of loss offered by the assured the amount which its adjuster or agent has determined or admitted to be due, then in that case the insured shall only recover from the said insurance company the difference between the amount thus paid him and the amount judicially ascertained to be actually due under the policy together with 12 per cent damages on said difference and all reasonable attorney's fees for the prosecution and collection of such loss.

**COPY OF ACT TO ACCOMPANY POLICY.**

**Sec. 4.** Be it further enacted, etc., That all fire insurance companies doing business in this State shall deliver to the insured with each policy issued a copy of this Act which shall be considered as a part of the policy contract as full as if it were incorporated therein, and any condition in the policy contract in contravention with the provisions of this Act shall be void and of no effect.

**REPEALING CLAUSE.**

**Sec. 5.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**Note.** The act is not unconstitutional. It does not arbitrarily discriminate against Insurance Companies and transfer their right to seek relief through the courts, nor does it impose an iron clad rule on the courts to allow damages and attorneys fees. Monteleone vs. Seabord, F. & M. Ins. Co., 126 L. 807. See also 128 L. 425. Central Globe Co. vs. Niagra Fire Ins. Co., 130 La. 221. In the case 126 L. 807 the court held that the act applies to policies issued before the passage of the act. This holding is reversed in Central Glass Co. vs. Niagra Fire Ins. Co., 131 L. 512. See also Central Glass Co. vs. Hamburg Bremen Fire Ins. Co., 123 L. 598, which the court considers and distinguishes. Fraternal Muster Circle vs. Snyder, 227 U. S. 497. An Insurance Company is not liable for statutory penalties under the act for withholding the amount of liability admitted by the agent or adjuster of the company, as long as the insured demands the payment of a larger sum and refuses to submit to an appraisal provided for in the policy. Hart vs. Springfield F. & M. Ins. Co., 136 L. 114.

If the Insurance Company arbitrarily refuses to pay the amount—which the adjuster has admitted to be due—except as a full and final settlement, the company is liable for twelve per cent. statutory damages on the full amount adjudged to be due under the policy and a reasonable attorneys fee. (The judgment finally rendered was for \$1350 and attorney's fees fixed at \$150.) Tilley vs. Camden Fire Ins. Assn., 139 L. 985. Where a fire insurance company has been garnished by a creditor of the assured, before the latter demanded payment of the amount of the loss, this act has no application. Frank I. Abbott Lumber Co. vs. Home Ins. Co., 140 L. 130.

**LICENSING FIRE INSURANCE BROKERS.**

**Act 276 of 1914, p. 545.**

**TITLE.**

**AN ACT** to provide for the licensing of fire insurance brokers; to provide the manner in which said licenses may be granted; to fix the duration thereof, and to fix the manner in which same may be revoked; to fix the amount of said license, and to repeal all laws or parts of laws in conflict with the provisions of this Act.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Secretary of State and Insurance Commissioner may upon the payment of twenty dollars (\$20.00), issue to any suitable person resident in this State, or resident in any other State granting fire insurance brokers' licenses to residents of this State, a license to act as a fire insurance broker to negotiate contracts of fire insurance or reinsurance or place risks or effect fire insurance or reinsurance with any qualified domestic fire insurance company or its agents, or with the authorized agent in this State of any foreign fire insurance company duly admitted to do business in this State upon the following conditions: The applicant for such a license shall file with the Secretary of State and Insurance Commissioner an application which shall be in writing upon a form to be provided by the Secretary of State and Insurance Commissioner, and shall be executed by the applicant under oath and kept on file by the Secretary of State and Insurance Commissioner. Such application shall state the name, age residence and occupation of the applicant at the time of making application, his occupation for the five years next preceding the date of filing the application, and shall state that the applicant intends to hold himself out and carry on business in good faith as a fire insurance broker, and shall give such other information as the Secretary of State and Insurance Commissioner may require. The application shall be accompanied by a statement upon a blank furnished by the Secretary of State and Insurance Commissioner as to the trustworthiness and competency of the applicant, signed by at least three reputable citizens of this State. If the Secretary of State and Insurance Commissioner are satisfied that the applicant is trustworthy and competent and intends to hold himself out and carry on business in good faith as a fire insurance broker, he shall issue to him the license applied for. The Secretary of State and Insurance Commissioner may at any time after the granting of a broker's license, for cause shown, and after a hearing, determine that the licensee has not complied with the insurance laws or is not trustworthy or competent, or is not holding himself out and actually carrying on business as a fire insurance broker; or is not a suitable person to act as such broker, and he shall thereupon revoke the license of such broker and notify him that his license has been revoked. A broker's license shall remain in force until the first day of the next April after its issue, unless sooner revoked by the Secretary of State and Insurance Commissioner for cause. The Secretary of State and Insurance Commissioner shall publish a notice of the revocation of a broker's license in such manner as he deems proper for the protection of the public. No fee for the license aforesaid shall be required of any agent of a foreign fire insurance company whose license fees as such agent amount to twenty dollars (\$20.00), and in case his license fees as such agent are less than twenty dollars (\$20.00), then he shall be required to pay such amount as with such fees shall amount to twenty dollars (\$20.00). Broker's license issued on application as herein provided may, in the discretion of the Secretary of State and Insurance Commissioner, be renewed upon the payment of the proper fees without his requiring anew the details required in the original application.

Sec. 2. Be it further enacted, etc., That all laws and parts of laws inconsistent with the provisions of this Act are hereby repealed and this Act shall take effect from and after January 1, 1915.

#### **ORGANIZATION, ETC., OF ASSOCIATIONS FOR PROTECTION OF LIFE AND PROPERTY—FIRE INSURANCE PATROL.**

**Act 115 of 1902, p. 186.**

##### **TITLE.**

**AN ACT** to provide for the organization, support and maintenance of associations formed for the protection and saving of human life and property in case of fire, in cities having a population of 50,000 or more, and providing for the enforcement of the provisions of this Act.

**RIGHT TO ORGANIZE FIRE INSURANCE PATROL.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, and it is hereby enacted by the authority of the same, That it shall be lawful for the fire insurance companies regularly licensed and authorized to do business in this State, to organize in any city of this State having a population of 50,000 or more, an association for the purpose of protecting life and property, from fire in said cities.

Provided, That for such service as the said association may perform in the interest of the public, no charge of any kind be imposed, and that in the efforts to protect and save life and property at and during any fire no discrimination shall be made between property which may be insured and that which may be uninsured. Such association shall be known as the Fire Insurance Patrol of the city in which they may be organized.

**MEMBERSHIP.**

Sec. 2. Be it further enacted, etc., That every fire insurance company regularly licensed and authorized to do business in the city in which such association as provided in Section 1 of this Act shall have its domicile, shall be eligible to membership in such association, and shall have one vote for each one thousand dollars (\$1,000.00) of premiums reported to such association for assessment, as hereinafter provided.

**COPY OF CONSTITUTION TO SECRETARY OF STATE.**

Sec. 3. Be it further enacted, etc., That when in any city of this State having a population of 50,000 or more, two-thirds of the fire insurance companies regularly licensed and authorized to do business in this State, shall have voluntarily organized such an association as is prescribed in Section 1 of this Act it shall be the duty of the president, secretary, and board of directors or executive committee of such association, to file with the Secretary of State a certified copy of the Constitution and by-laws, and a certified list of the fire insurance companies subscribing thereto, and if the organization be found to conform to the provision of this Act, it shall be the duty of the Secretary of State to furnish such association with a certificate of approval.

**POWER TO MAINTAIN APPARATUS, ETC.**

Sec. 4. Be it further enacted, etc., That every such association as provided for in Section 1 of this Act shall have power to provide and maintain a corps of men, with the proper officers and suitable apparatus and quarters, to save and preserve life and property at and after a fire, and the better to enable them to act with promptness and efficiency, power is hereby granted to such associations, its officers and its men, to enter any building on fire or which in their judgment is immediately exposed to or in danger of taking fire from other burning buildings. To protect and save property therein, and to remove such property or any part thereof at or immediately after a fire; provided, however, that nothing in this Act shall be so construed as to lessen in any way the authority of the fire department of the city in which such association shall have its domicile or to warrant or justify any interference with them in the performance of their duties.

**RIGHT OF WAY FOR MEN AND APPARATUS.**

Sec. 5. Be it further enacted, etc., That the officers and men of every such association as provided for in Section 1 of this Act, with their teams and apparatus, shall have the same right of way whilst going to a fire as the fire department of the city in which such association may have its domicile and any violation of the street rights of such associations shall be punished in the same manner as is or may hereafter be provided for the punishment of violations of the rights of fire departments by said cities.

**PAYMENT OF EMPLOYEES, ETC., TAX ON MEMBERS.**

Sec. 6. Be it further enacted, etc., That to provide for the payment of persons employed by such associations and to maintain the buildings

and apparatus for saving life and property, and to provide for all other expenses of associations organized under the provisions of this Act, said associations are empowered to require a statement to be furnished annually by all corporations, associations, underwriters, agents or persons, of the aggregate amount of premiums received for insuring real and personal property in the cities in which said associations are domiciled, from loss by fire for the twelve months next preceding the 31st day of December of each year which statement shall be sworn to by the president or secretary of such insurance company or association, or by the agent or person so acting and effecting such insurance in said cities, and shall be handed to the secretary of such associations as may be organized under the provisions of this Act, within thirty days after the time to which such returns are to be made; said returns shall specify the amount of gross premiums written by such insurance company, association or agent during the said twelve months on all policies of all kinds on risks located in cities in which Fire Insurance Patrol Associations may have been organized under the provisions of this Act, deducting only return premiums paid and premiums paid for re-insurance in companies authorized to do business in the State of Louisiana, after deducting from such premiums paid for re-insurance, return premiums received on such canceled re-insurance during the said twelve months.

No re-insurance in companies not authorized to do business in the State of Louisiana shall be deducted.

**BOARD OF DIRECTORS TO FIX ASSESSMENTS.**

Sec. 7. Be it further enacted, etc., That the president, board of directors or executive committee of such associations as may be organized under the provisions of this Act are hereby empowered to fix the assessments of all fire insurance companies regularly licensed and authorized to do business in this State, in proportion to the several amounts of premiums returned as received by each, as provided in Section 6 of this Act. Said assessments shall be based on the estimated expenses for the current year and shall in no case exceed two per centum on the aggregate amount of premiums returned as provided in Section 6 of this Act, and such assessments shall be payable quarterly in advance.

**COLLECTION BY SECRETARY OF STATE.**

Sec. 8. Be it further enacted, etc., That it shall be the duty of the secretary of such associations as may be organized under the provisions of this Act, to report to the Secretary of State all fire insurance companies neglecting to make statements of the amounts of premiums received as provided in Section 6 of this Act, and all fire insurance companies failing to pay the assessments as provided for in Section 7 of this Act, with a statement of the amount due by each; it shall be the duty of the Secretary of State to make demand on such delinquent companies for said statements, and to collect the amounts due by such delinquent companies, and to pay over the sum or sums so collected to said association, taking therefor the receipts of the properly authorized officer of such association, and for such service the Secretary of State shall deduct a fee of five per centum (5%) upon the sum or sums so collected and paid over.

**REVOCATION OF LICENSE FOR DELINQUENTS.**

Sec. 9. Be it further enacted, etc., That it shall be the duty of the Secretary of State to revoke the license of any fire insurance company failing or refusing to comply with his demands as provided in Section 8 of this Act, within fifteen (15) days after such demands shall have been made, and such revocation shall be maintained until such demands have been complied with.

**EXISTING ASSOCIATIONS NOT ABOLISHED.**

Sec. 10. Be it further enacted, etc., That in every city in this State whereof many association has heretofore been formed for the purpose of protecting life and property from fire, such association shall not be abolished by this Act, but upon filing with the Secretary of State a certificate

of acceptance of the provisions of this Act, with a certified copy of its constitution and by-laws, shall be continued hereunder as the Fire Insurance Patrol of such city wherein it is located, and enjoy all the powers and privileges of this Act; provided, however, if it shall not so file its acceptance within three months after the passage of this Act, then the corporations designated in this Act may organize another association to execute the objects and purposes of this Act.

Sec. 11. This Act shall take effect from the date of its passage.

Liability of the Fire Ins. Patrol for injuries to one of the paid firemen of the city, while the patrol and the company to which the injured man belonged, were both responding to a fire alarm. Right of Way, Etc., Coleman vs. Fire Ins. Patrol, Etc., 122 L. 626. Rady vs. Same, 126 L. 273

## FIRE PREVENTION BUREAU.

Act 189 of 1904, p. 420.

**TITLE.** (As amended by Act 174, 1912, p. 316).

"AN ACT to authorize and provide for the organization by the Fire Insurance Companies doing business in this State of a 'Fire Prevention Bureau,' for the purpose of making inspection as to physical care and condition of fire risks located in this State or defining the safest methods of the construction of buildings, of supervising the installation of electric and heating apparatus and other devices involving fire hazard, of collecting statistical information, etc., with the object or reducing to a minimum the chances of fire, and the cost of fire insurance; to authorize the collection from Fire Insurance Companies incorporated in other States and doing business in this State of a proportionate part of the expenses of maintaining said bureau, and to authorize the Tax Collector to refuse to issue license to companies failing or refusing to pay such assessment, and to make the Secretary of State and the Fire Marshal ex-officio consulting members of such association."

### RIGHT TO ORGANIZE BUREAU.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for the fire insurance companies regularly licensed and authorized to do business in this State, to organize a "Fire Prevention Bureau," the purpose of which shall be to make inspections as to physical care and condition of risks located in the State of Louisiana; to define the safest methods of construction of buildings, to supervise the installation of electric and heating apparatus and other devices involving fire hazard, as they may appear from time to time, in order that the chances of fire may be reduced to a minimum.

### ELIGIBILITY TO MEMBERSHIP.

Sec. 2. Be it further enacted, etc., That every fire insurance company regularly licensed and authorized to do business in the State shall be eligible to membership in said association, and shall have one vote in any ballot taken concerning any of its proceedings.

### MUST FILE COPY OF CONSTITUTION.

Sec. 3. Be it further enacted, etc., That when such an association shall have been organized by a majority of the fire insurance companies organized under the laws of the State, and a majority of the fire insurance companies organized under the laws of other States or countries, and engaged in business in this State, it shall be the duty of the president, secretary and Board of Directors, or executive committee of said association to file with the Fire Marshal a certified copy of the constitution and by-laws, and a certified list of the fire insurance companies subscribing thereto, and if the organization be found to be in accord with the provisions of this Act, it shall be the duty of the Fire Marshal to furnish said association with a certificate of approval.

**SECRETARY OF STATE AND FIRE MARSHAL ARE MEMBERS.**

Sec. 4. (As amended by Act 174, 1912, p. 316). Be it further enacted, etc., That when such an association has been duly and regularly organized under the provisions of this Act, the Secretary of State and the Fire Marshal shall be ex-officio members of such association and shall be members of the board of directors or executive committees of said association and as such shall have one vote each in any proceedings transacted by said association or such board of directors or executive committee.

**BUDGET OF EXPENSES; ASSESSMENTS.**

Sec. 5. Be it further enacted, etc., That it shall be the duty of the secretary of such association, upon receipt of said certificate, before the first day of March of every year; to furnish the Fire Marshal with a budget of the necessary expenses to operate the bureau for the following year. From the total sum of said budget shall be deducted such contributions as may be voluntarily made by fire insurance companies organized under the laws of this State, and subscribing to the by-laws and constitution of the said association. It shall then be the duty of the Fire Marshal to furnish the State Tax Collector with the amount of the pro rata assessments of each company to make the amount necessary to operate the said bureau for the following year, as shown by said budget. It shall then be the duty of the Tax Collector to levy and collect from every company offering to pay its license, the amount of its assessment as furnished him by the Fire Marshal. Any company refusing or neglecting to pay to the Tax Collector the amount so levied and assessed shall forfeit its right to do business and the Tax Collector shall be prohibited from granting any license to such company. Such assessment shall be upon the net premiums collected from insurances upon property located in this State, as shown by the annual statements of the companies of the previous year, filed with the Secretary of State, and shall be in the same proportion of said premiums as the voluntary contributions of the fire insurance companies organized under the laws of this State shall bear to the net premiums collected by said companies from insurance on property located by said companies from insurance on property located within the State. It shall be the duty of the Tax Collector to pay over the sum or sums so collected to the State Treasury, in the same manner as other funds collected, to be warranted for by the secretary of the said association, approved by the board of directors or executive committee of such association, and by the Fire Marshal; any balance remaining to the credit of this fund after payment of all expenses herein provided for, shall be carried forward by the Treasurer to the ensuing year's account.

**ANNUAL AGREEMENT TO CONTINUE ASSOCIATION.**

Sec. 6. Be it further enacted, etc., That it shall be the duty of the said association, through its regularly constituted officers, to furnish the Fire Marshal, each year, on the 15th day of January, a certified extract from the minutes of the annual meeting of the aforesaid association showing that a majority of the fire insurance companies organized under the laws of this State, and a majority of the fire insurance companies organized under the laws of other States, or countries, and licensed to do business in this State, have formally agreed in writing to continue such association for another year.

**DOMICILE AND BRANCH OFFICES.**

Sec. 7. (As amended by Act 174, 1912, p. 316). Be it further enacted, etc., That the said association shall select its own domicile and shall have the right to establish branch offices throughout the State; provided, that the records of the association shall during business hours be open to the inspection of the Fire Marshal, or the Secretary of State, or their representatives. It shall be lawful for the association to indicate on the inspection reports furnished to its members the basic cost of the risk to be assumed, and the relative measure which each defect bears to the fire hazard as a whole and the consequent proportionate value of each improvement suggested to minimize the chances of fire, so that each assured

may be correctly informed as to the relative importance of each defect found in the risk: "provided that the term basic cost as herein used shall be construed as meaning the cost to the insurance companies and shall not include any profit on the risk to be assumed."

**MUST FURNISH SCHEDULE OF DEFECTS TO PROPERTY OWNERS.**

Sec. 8. Be it further enacted, etc., That it shall be the duty of the said association to furnish upon application, and without cost to any property owner, a schedule giving in detail the defects either of construction or of occupancy existing in his risk, and such other information as may be deemed essential to an intelligent understanding of the fire hazard and the methods to be employed either in the case of new construction, or the remodeling of existing structures, to reduce such fire hazard and the cost of same to a minimum.

**NUMBER OF ASSOCIATIONS WHICH MAY ORGANIZE.**

Sec. 9. Be it further enacted, etc., That if it be found inexpedient to secure the consent of a majority of the fire insurance companies organized under the laws of this State, and a majority of the fire insurance companies organized under the laws of other States, or countries, and engaged in business in this State to the formation of such an association as is prescribed in Section 1 of this Act, under such circumstances, it shall be lawful for a lesser number to organize such an association which may avail itself of the provisions of this Act by filing a copy of its constitution and by-laws with the Fire Marshal; provided, however, that the expense for its maintenance and operation shall be met by voluntary subscriptions of the members thereof.

**COMPILATION AND PUBLICATION OF DATA.**

Sec. 10. (As amended by Act 174, 1912, p. 316). Be it further enacted, etc., That the compilation and publication of data contemplated by this Act are advisory only and are intended only for the information of the fire insurance companies, and for the owners of property subject to loss by fire, with a view of decreasing the fire waste, and thereby the cost of fire insurance, nothing herein contained shall be construed as permitting the insurance companies forming the Fire Prevention Bureau to make any agreement, compact or combination as to the rate to be charged for fire insurance.

**REPEALING CLAUSE.**

Sec. 11. Be it further enacted, etc., That this Act shall take effect from and after the date of its promulgation, and that all laws or parts of laws contrary to or in conflict with the provisions of this Act, be and the same are hereby repealed.

**FIRE MARSHAL.****Act 26 of 1914, p. 81.****TITLE.**

**AN ACT** to carry into effect Article 320 of the Constitution of the State of Louisiana of 1913 recognizing the office of Fire Marshal of the State of Louisiana and to provide the manner of appointing said Fire Marshal and to define his duties, powers and authority and to provide for a tax to be levied on fire insurance companies for the expense of maintaining the office of Fire Marshal of the State of Louisiana, to provide for the punishment of violations of the provisions of this Act and to fix the penalties for such violations, and to put into force the provisions of said Article 320 of the Constitution, and also the provisions of this Act.

**CONTINUATION OF OFFICE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the office of Fire Marshal for the State of Louisiana as

recognized in Article 320 of the Constitution of this State for the year 1918 is continued in existence; that the Governor of the State of Louisiana shall appoint said officer whose term of office shall expire at the same time as that of the Governor appointing him.

**INVESTIGATION OF CAUSES, ETC., OF FIRES.**

Sec. 2. Be it further enacted, etc., That under the direction of said Fire Marshal, his deputies, Chief of the Fire Department of all cities, towns and villages where a fire department is established, or the Town Marshal of towns or villages where no fire department exists, or the Sheriff of each parish, in the territory without the limits of an incorporated city, town or village are hereby authorized to investigate the cause, origin, and circumstances of every fire occurring in such cities and towns in which property has been destroyed or damaged, and shall specially make investigation whether such fire was the result of carelessness or design. Such investigation shall be begun within three days, not including the Lord's day, of the occurrence and the Fire Marshal shall supervise and direct such investigation whenever he deems it expedient or necessary. The officer making investigation of fires occurring in cities, towns or villages shall forthwith notify the Fire Marshal and within one week of the occurrence of the fire, shall furnish to the Fire Marshal a written statement of all facts relating to the cause and origin of the fire, the kind, value and ownership of the property destroyed or damaged, and such other information as may be called for by the blank provided by the Fire Marshal. The Fire Marshal shall keep in his office a record of all fires occurring in the State, together with all facts, statistics and circumstances, including the origin of the fires which may be determined by the investigation provided for by this Act.

**SAME SUBJECT.**

Sec. 3. Be it further enacted, etc., That it shall be the duty of the Fire Marshal to examine or cause examination to be made in accordance with the provisions of Section 2 of this Act, into the cause, circumstances and origin of all fires occurring within the State to which his attention has been called by which property is accidentally or unlawfully burned, destroyed or damaged, whenever in his judgment the evidence is sufficient, and to specially examine and decide whether the fire was the result of carelessness or the act of an incendiary. The Fire Marshal shall, when he deems it necessary, take, or cause to be taken the testimony on oath of all persons supposed to be cognizant of any fact, or to have means of knowledge in relation to the matters as to which an examination is herein required to be made, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offense and shall furnish to the District Attorney of the district all such evidence, together with the names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

**POWERS OF MARSHAL AND REPRESENTATIVES.**

Sec. 4. Be it further enacted, etc., That the Fire Marshal, or his authorized representatives, shall have the power of a committing magistrate for the purpose of summoning witnesses, administering oaths and affirmations, and it shall be the duty of any sheriff or constable to serve any process that may be directed to him, by the Fire Marshal, or his authorized representatives. False swearing in any matter or proceeding aforesaid shall be deemed perjury, and shall be punished as such. Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of said Fire Marshal or his authorized representatives, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct after being summoned by said Fire Marshal, or his authorized representatives, to appear before him or them, to give testimony in relation to any matter or subject under investigation as aforesaid, may

be charged with contempt before any court of competent jurisdiction, and if found guilty be fined a sum not less than \$5.00, nor more than \$50.00, or be imprisoned in the parish jail for not less than one day, nor more than twenty days. Said Fire Marshal, or his authorized representatives shall have authority at all times of day or night in the performance of the duties imposed by the provisions of this Act, to enter upon and examine any building or premises, where any fire has occurred, and other buildings or premises where any fire has occurred, and other buildings or premises adjoining or near the same. Said Fire Marshal or his authorized representatives may make affidavit before some justice of the peace of the district in which the fire occurred that he believes, or has reason to believe that by a search of certain premises to be designated in the affidavit, he will obtain evidence tending to show the origin of the fire to have been incendiary and upon making such affidavit the justice of the peace shall issue a warrant authorizing the Fire Marshal, or his authorized representative to search the premises named in the affidavit to be designated in the warrant. All investigations held by or under the direction of the Fire Marshal, or his authorized representative may, in his discretion, be private, and persons other than those required to be present, by the provisions of this Act, may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

**SAME SUBJECT; RIGHT OF ENTRY, ETC.**

Sec. 5. Be it further enacted, etc., That the Fire Marshal, or his authorized representative upon complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building, or other structure, which for want of proper repair, or by reason of age and dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, and whenever any of such officers shall find in any building, or upon any premises, combustible or explosive material, or inflammable conditions, dangerous to the safety of said buildings, or premises, they shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises; provided, however, that if the said occupant or owner shall deem himself aggrieved by such order, he may, within twenty-four hours appeal to the Fire Marshal, and the cause of the complaint shall be at once investigated by the direction of the latter, and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. Any owner or occupant of buildings or premises failing to comply with the orders of the Fire Marshal, or his authorized representative as above specified, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than five dollars, nor not more than twenty-five dollars, or by imprisonment for not less than one day, nor more than twenty-five days for each day's neglect.

**COMPENSATION TO FIRE CHIEFS, ETC., FOR REPORTS.**

Sec. 6. Be it further enacted, etc., That there shall be paid to the chiefs of fire departments, who do not receive compensation for their services as such chiefs, and to marshals of towns and villages, and to the sheriffs of every parish who are by this act required to report fires to the Fire Marshal, the sum of fifty cents for each fire so reported to the satisfaction of the Fire Marshal, and in addition thereto, mileage at the rate of fifteen cents per mile for each mile traveled to the place of the fire. Any city, town, village or parish officer mentioned in Section 2 of this Act, who neglects or refuses to comply with any of the requirements of this act shall be guilty of a misdemeanor and on conviction be punished by a fine of not less than \$25.00 nor more than \$200.00.

**MARSHAL AUTHORIZED TO APPOINT DEPUTIES.**

Sec. 7. Be it further enacted, etc., That the Fire Marshal be authorized to appoint deputies, counsel, detectives and all officers he deems necessary in the performance of the duties imposed upon him by the provisions of this act, and any expenses incurred by the Fire Marshal in the performance of said duties, shall be defrayed by the Fire Insurance Companies doing business in this State, and a tax of one-half (1-2) of one (1) per centum on the gross annual premium receipts, less return premiums of all such companies is hereby levied for this purpose to be paid by them to the tax collector when paying their annual licenses; the tax collector shall refuse to issue license to any fire insurance company failing or refusing to pay said Fire Marshal tax. The sum so collected by him shall be paid into the State Treasury in the same manner as other funds collected by him, and to be warranted for by the Fire Marshal, for his salary and other expenses incurred in the discharge of the duties of his office as provided by this act. The salary of said Marshal is hereby fixed at three thousand dollars per annum, and it is hereby made the duty of the said Fire Marshal to keep separate account of all monies received and disbursed under the provisions of this Act, and he shall include same in his annual report.

**ANNUAL REPORT OF MARSHAL.**

Sec. 8. Be it further enacted, etc., That the Fire Marshal shall submit annually to the Governor as early as consistent with full and accurate preparation and not later than the first day of May, a detailed report of his official actions under this Act.

**REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws and parts of laws in conflict with this Act or contrary thereto be and the same are hereby repealed and this Act shall take effect from and after the date of its promulgation.

In State vs. Lafayette Fire Ins. Co., 134 La. 78, it was held that Const. Arts. 319, 320, Const. 1898, conferred upon the electors of the city, the right to elect the officers charged with the exercise of the police powers of the city, that the Fire Marshal appointed by the Governor was therefore without the right to do so. That this entailed the nullity of the tax, in so far as the City of New Orleans and a company "which resides and carries on its business in the city is concerned." But see Const. (1913), Art. 320, "The office of Fire Marshal \* \* \* is hereby recognized," etc.

**SURETY COMPANIES; ORGANIZATION AND OPERATION.**

**Act 41 of 1894, p. 45.**

**TITLE.**

**AN ACT to authorize certain corporations to become surety upon bonds required to be furnished by law, and prescribing the conditions under which they may do so.**

**COMPANIES MAY BE ACCEPTED AS SURETIES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That hereafter any corporation duly incorporated under the laws of this or any other State of the United States for the purpose of transacting the business of guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies, and executing and guaranteeing bonds or undertakings required or permitted in actions or proceedings by law allowed, and having a paid-up cash capital of not less than \$250,000.00 and which has complied with and is qualified under the provisions of this Act and which has assets allowable as such under the laws of this State, or under the laws of the State in which it is incorporated, in excess of its capital stock, its outstanding debts, and a premium reserve on all outstanding risks as herein provided for, may be accepted as sole and sufficient surety

upon any bond, undertaking or obligation, required, or permitted to be made, given, tendered or filed with surety or sureties, by any law of this State, or the ordinances, rules, or regulations of any municipality, board body, organization, or public officer in lieu of any surety or sureties now required by law; and such execution by such company of such bond, undertaking or obligation shall in all respects be a full and complete compliance with all the requirements of such laws, ordinances, or regulations that such bond, undertaking, or obligation shall be executed by one or more sureties, or that such sureties shall be residents, or freeholders, or either or both, or possess any other qualifications. And such company shall be subject to all the liabilities and have all the rights of sureties under the provisions of law relating thereto, it being the true intent and meaning of this Act to enable corporations created for the above purposes to become and be accepted as sole surety on all bonds, undertakings or obligations required or permitted by law or the rules, ordinances or regulations of any municipality, board, body, organization or public officer.

**DEPOSIT BY PRINCIPAL TO SECURE COMPANY.**

Sec. 2. Be it enacted, etc., It shall be lawful for any party of whom a bond or understanding is required, to agree with such company, acting as surety for the deposit of any or all moneys for which such sureties are or may be held responsible with a trust company or bank authorized by law to receive deposits, if such deposit is otherwise proper; and also for the safe-keeping of any or all other depositable assets for which such sureties may be held responsible with a safe deposit company, or bank authorized by law to do business as such, in such manner as to prevent the withdrawal of such money or assets or any part thereof, except with the written consent of such surety, or an order of court made on such notice to them as the court may direct.

**DEPOSIT REQUIRED OF COMPANY.**

Sec. 3. Be it enacted, etc., That no company shall act as surety on such bonds, undertakings or obligations unless at least one hundred thousand dollars of its cash capital is invested in securities created by the laws of the United States or by or under the laws of the State where it is incorporated, or in other safe, marketable and interest-bearing stocks or securities, the value of which at the time of such deposit shall be at or above par, and unless such securities are deposited with and held by the Insurance Commissioner, Auditor, Comptroller, or other chief financial officer of the State where said company is domiciled, in trust for the benefit of all the obligees of such company in the United States, and not subject to withdrawal until all outstanding obligations of suretyship of such company in the United States are terminated and satisfied.

**CERTIFICATE OF SECRETARY OF STATE.**

Sec. 4. Be it enacted, etc., That all such companies before transacting any such business in this State, shall file with the Secretary of State a written application to be authorized to do so, a copy of its charter or act of incorporation, and a statement, signed and sworn to by its President and Secretary, stating the amount of its paid up cash capital particularizing each item of investment, the amount of premium on existing bonds upon which it is surety and the amount of liability for unearned portion thereof estimated at fifty per centum of the annual premium on all outstanding risks for one year or less, and pro rata for terms of more than one year; specifying also the amount of its outstanding debts of all kinds; and the amount of its income and expenditures for the preceding year, specifying the items thereof. And if such company is incorporated under the laws of any other State than this State, it shall besides, file a power of attorney appointing some resident of this State, upon whom service of process can be made as required by existing laws.

**ANNUAL STATEMENT OF COMPANIES.**

Sec. 5. Be it enacted, etc., Every such company shall annually, in the month of January, file with the Secretary of State a similar statement to

that required by the previous section and shall also furnish him with a certificate from the officer with whom the deposit required by section three of this Act is made, showing the description of such securities and the manner in which they are held and stating that he is satisfied that such securities are fully worth one hundred thousand dollars; and shall besides, furnish the Secretary of State with such other information touching its condition and credit as he may require, signed and sworn to, as above directed.

#### **SOLVENCY OF COMPANY; CERTIFICATE OF SEC'TY OF STATE.**

Sec. 6. Be it enacted, etc., If the Secretary of State be satisfied that such company is solvent; that it has the cash capital as provided in section one hereof, and surplus assets in excess of its capital stock, its outstanding debts and the premium reserve in such section four specified, and that it has complied in all respects with and is qualified under this Act, he shall issue to it, and to each of its agents in this State his certificate that it is authorized to become and be accepted as sole surety on all bonds, undertakings, or obligations required or permitted by law or such ordinances, rules and regulations of any municipality, board, body or public officer and such certificate shall be conclusive proof of its solvency and credit for all purposes, and of its right to be so accepted as such sole surety and its sufficiency as such.

#### **INVESTIGATION BY SECRETARY OF STATE.**

Sec. 7. Be it enacted, etc., That the Secretary of State shall have the right at any time, and at the expense of the company, to personally or by persons appointed by him, examine into the affairs of any such company, doing or desiring to do business in this State, and shall have free access to its books, papers, etc., and may examine under oath its officers and agents in relation to its affairs and shall revoke its authority to do such business whenever such examination shall be refused or whenever from its statement, or from such examination, it shall appear to him that it cannot or does not comply with the provisions of this Act, or is not qualified to act as surety thereunder and thereupon cause notice of such revocation to be published, and thereafter such company shall cease doing such business in this State.

#### **COMPANY CANNOT DENY ITS LIABILITY, ETC.**

Sec. 8. Be it enacted, etc., No company having signed such bond or bonds shall be permitted to deny its corporate power to execute said instrument, or incur such liability in any proceeding to enforce liability against it thereunder and such company shall be sueable in the same jurisdiction as the principal obligee on such bond, and citation shall be served on it, or its attorney, for services of process, as is by law in such cases provided.

#### **ACT DOES NOT CHANGE EXISTING LAW.**

Sec. 9. Be it enacted, etc., That this Act is not intended in any manner, except as above provided, to change existing laws on the subject of suretyship, and except to permit such a company to act and be accepted as sole surety on all bonds, undertakings and obligations required or permitted by the laws of this State, or the ordinances, rules or regulations of any municipality, board or public officer.

#### **REPEALING CLAUSE.**

Sec. 10. Be it enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

Note. This act is not unconstitutional and a surety company organized in another State but subject to the jurisdiction of the courts of this State, is a good surety on a bond for suspensive and devolutive appeal. Standard Seed Co. vs. Matheon, 48 A. 1321. Moffit vs. Koch, 106 L. 371; Elchhorn vs. N. O. & C. Ry. Co., 114 L. 712. An executor is not authorized to charge to the succession, the premium which he paid a surety company to sign his bond. Suc. of Rabasse, 51 A. 690 (but see Act 76, 1900, printed at p. 1009) for what is proper service on a surety company, where execution against the principal in a forthcoming bond has been returned nulla bona. In re Curtis, 115 L. 918.

This act was not repealed by Act 214, 1914, requiring sureties on appeal bonds in Justices Courts to reside in the ward in which the court is held, and a surety company properly authorized to do business in this State, is such a surety as the law prescribes. Savant vs. Mercadal, 136 L. 248. Where proof had not heretofore been made, that a surety company, surety on a bond of appeal, had heretofore qualified to transact business in this State, the showing may be made by certiorari. Pons vs. Pons, 127 L. 25. The security on the bond remains legally valid, though the company has withdrawn from the State, as it had left a deposit of \$50,000 in the hands of the Treasurer of the State for the protection of the bonds subscribed by it, and outstanding. Franek vs. Brewster et al. 139 L. 46. When a contractor furnishes to a municipality a bond with one or more surety companies—duly authorized to do business in that State—is such a bond subject to the approval of the municipal authorities, and if it is, to what extent have the authorities the right to question anything more than the fact that the bond was duly signed by properly authorized representatives of the company? City of New Orleans vs. LeBlanc, 139 L. 113. A duly admitted surety company is such a surety as the law prescribes and there is nothing in the charter of the city of Lafayette—Act 310, 1914—which repeals either this act or Act 71, 1904. State ex rel Colombe vs. St. Julien, 140 L. 258.

## SURETY AND BOND COMPANIES, ETC., TO DEPOSIT \$50,000.00 WITH STATE TREASURER.

Act 71 of 1904, p. 185.

### TITLE.

AN ACT requiring all guaranty, fidelity, surety and bond companies doing business in this State to deposit with the State Treasurer a guarantee fund for the protection of citizens of the State and insuring a compliance with all contracts made by them in the State.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all guaranty, fidelity, surety and bond companies doing business in this State shall deposit with the State Treasurer either in money, United States or State, Levee District, or approved municipal bonds of the State, or the bonds of any other State of the United States, the bonds or stock of any city of the first or second-class under the latest Federal census, or the bonds of any first-class railroad or railroad system, commanding not less than par at the time of deposit, this approval to be by the Secretary of State, the value of said deposit to be maintained, the sum of at least fifty thousand dollars (\$50,000.00), to be held subject to any claim, liens or judgments that may be judicially obtained against them in the courts of this State, or the Federal courts in this State, or arising from any contract of insurance, or indemnity or fidelity, of guaranty entered into in this State, and to be liable to seizure and sale at the instance of any judgment creditor of such companies, under judgments obtained in any of the courts of this State or of the Federal courts in this State against them.

Sec. 2. Be it further enacted, etc., That any company failing to deposit such sum on or before the first day of January, 1905, shall forfeit its right to do any business in this State, and the Secretary of State shall revoke its authority to do any further business. And any company doing business in this State after such revocation of authority by the Secretary of State shall be liable to all fines and penalties that now attach by existing laws to companies doing business in this State without proper authority.

Sec. 3. Be it further enacted, etc., That whenever any of the said companies desire to withdraw from doing business in this State it shall be permitted to do so upon furnishing the Secretary of State with satisfactory proof that it has paid and settled all claims against it on risks incurred in this State and shall then be permitted to withdraw any sums or bonds that it may have deposited under the provisions of this Act; provided, that for the purposes of said withdrawal, the Secretary of State shall not require evidence of the formal cancellation of the bonds of public officials, but shall accept the quietus issued to said official and in cases where no quietus issues under the law, the lapse of one year from the officer's term of office shall for the purpose of this withdrawal be tantamount to a quietus.

Sec. 4. Be it further enacted, etc., That this Act shall take effect from and after the first day of January, 1905, and all laws or parts of laws in conflict with or inconsistent therewith be and the same are hereby repealed.

## EXAMINATIONS OF INSURANCE COMPANIES.

**Act 217 of 1914, p. 413.**

### TITLE.

**AN ACT** requiring insurance companies to pay the expense of examination, where such examinations are made by the Secretary of State, as provided by law, and providing a penalty for the enforcement of this Act.

### COMPANY TO PAY EXPENSES OF EXAMINATION.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the Secretary of State shall make any examination of an insurance company, where such examination is provided by law, all of the expenses incurred by the Secretary of State in conducting such examination, including the expenses and fees of actuaries, certified public accountants or clerical assistants, especially employed by him to make the examination, shall be paid by the company examined.

### WHOM SECRETARY OF STATE SHALL EMPLOY TO MAKE EXAMINATION.

Sec. 2. Be it further enacted, etc., That the Secretary of State shall employ only such actuaries, certified public accountants or special clerical assistants as are actually necessary to conduct the examinations, whose compensation shall be fixed according to the time actually devoted to the work of conducting the examination, and compiling their reports, verified by oath, as now required by law, which compensation shall always be reasonable and commensurate with the value of the service performed. That upon the completion of the examination it shall be the duty of the Secretary of State to certify to the company the amount of expenses incurred as provided in this act, whereupon the company shall pay the amount so certified by him to the actuaries, certified public accountants or special clerical assistants employed by him; provided, however, should the company deem the amount of the expenses so certified unreasonable or contrary to the provisions of this Act, it may within fifteen days after the receipt of such certificate, take a rule, in a court of competent jurisdiction, upon the Secretary of State to test the reasonableness and legality, under this Act, of the amount of expenses certified to by the Secretary of State, which rule shall be tried by preference, and upon appeal shall be given preference in the Appellate Court, as provided by the law for other State cases.

### REFUSAL TO PAY FOR EXAMINATION.

Sec. 3. Be it further enacted, etc., That should any company fail or refuse to pay the amount of expense of examinations, certified by the Secretary of State, after fifteen days from the receipt of such certificate, or after final judgment, where a rule has been taken as provided herein, then the Secretary of State may revoke the certificate of authority of such company to do business until the full amount of same is paid.

### ACT APPLICABLE TO ALL INSURANCE COMPANIES.

Sec. 4. Be it further enacted, etc., That the provisions of this Act shall apply to all kinds of insurance companies doing business in this State, or applying for admission to do business, including surety and fidelity companies, industrial, sick benefit or burial association, fraternal societies, or any other class or kind of organization or association doing an insurance in this State.

**POLICIES OF INSURANCE, HOW AND BY WHOM SIGNED.****Act 153 of 1918, p. 263.****TITLE.**

AN ACT requiring that all contracts or policies of fire, steam boiler, automobile, workmen's Compensation, health or burglary insurance, and that all surety bonds, or bonds guaranteeing the fidelity of persons holding offices of private or public trust, or bonds guaranteeing the performance of contracts, or assuming the liability in whole or in part of a common carrier, shall be issued and countersigned by a bona fide resident of the State of Louisiana, duly commissioned and licensed by the Secretary of State as the representative of the company, who shall receive the full commission on all such contracts, policies or undertakings, and to provide a penalty for the violation of this Act.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all contracts or policies of fire, steam boiler, automobile, workmen's compensation, health and burglary insurance, surety bonds, bonds guaranteeing the fidelity of persons holding office of public or private trust or bonds guaranteeing the performance of contracts or assuming in whole or in part the public liability of a common carrier, on risks or property located in the State of Louisiana or in connection with any business conducted or operated within the State of Louisiana, which contracts, policies or undertakings may be issued or entered into by companies, corporations or associations authorized to do business in the State of Louisiana, shall be issued and countersigned by a duly authorized representative who is a bona fide resident of the State, duly commissioned and licensed by the Secretary of State, and such duly authorized representative shall receive on each contract, policy, bond or undertaking the full usual commission allowed and paid by such companies, corporations or associations to their agents on business written or transacted for them; and requiring further that where policies, contracts or forms used in writing such insurance policies or contracts are placed by the companies with their local agents that the companies shall be prohibited from placing such policies, contracts or forms with any agency which is not actually domiciled in the State of Louisiana and which does not keep such policies, contracts or forms in the State of Louisiana until delivered to the assured or other recipient of the completed contract; and further requiring that the counter-signature on all such contracts, policies or undertakings shall be in the handwriting of the resident agent or such other person as he may delegate this authority to, provided such person be also a bona fide resident of the State. Provided further that in the event that any local representative of any such companies is composed of a firm, partnership, company or corporation consisting in part of residents of the State of Louisiana and in part of non-residents of the State of Louisiana, then the non-residents of Louisiana shall be prohibited from countersigning such policies or contracts with the firm name of the representative licensed by the Secretary of State. Provided further that this section shall not apply to policies of reinsurance nor to policies covering on the rolling stock of railroad companies doing a general freight and passenger business, nor to fraternal associations or policies of life or endowment insurance which include provisions for the waiver of premiums or for other benefits in event of accident or disability.

Sec. 2. Be it further enacted, etc., That it shall be the duty of the Secretary of State to require each company, corporation or association applying for authority or the renewal of authority to do business in the State to file with him prior to the first of March in each year an affidavit that it has strictly complied with the provisions of the Act and the Secretary of State shall decline to issue any certificate of authority to do business in this State to any company, corporation or association which shall fail to furnish said affidavit that it has complied with the provisions of this Act.

**Sec. 3.** Be it further enacted, etc., That any company, corporation or association permitting their contracts to be issued in violation of this Act, shall have its license to do business in this State revoked by the Secretary of State.

**Sec. 4.** Be it further enacted, etc., That all laws in conflict or inconsistent with the provisions of this Act be and the same are hereby repealed, especially Act No. 218 of the Session Acts of the General Assembly of the State of Louisiana, approved July 6th, 1916.

## **INVESTMENTS BY INSURANCE COMPANIES.**

**Act 95 of 1912, p. 114.**

### **TITLE.**

**AN ACT** permitting insurance companies organized under the laws of this State to make investments in addition to those now permitted.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That, in addition to the investments now permitted by law, any insurance company organized under the laws of this State may invest any of its funds in any legally authorized and valid bonds or evidences of debt of any county, parish, city, town, village, school district, drainage district, municipality or other civil division of this State or any other State or Territory of the United States, or in bonds of railways, railroads or public utility corporations and may loan upon the security of improved, unencumbered real property in this State, or any other State or Territory of the United States worth fifty per centum more than the amount loaned thereon; provided that the funds representing the amount of deposit now required to be made with the State Treasurer shall consist only of the liquid assets now designated by law for such purposes.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed."

**Note.** Act 210 of 1910 is on the same subject-matter, as the Act of 1912, gives identically the same investments as the earlier act, merely adding Bonds of Railroads, etc.; the act of 1910 is not printed.

## **INVESTMENTS OF INSURANCE COMPANIES.**

**Act 84 of 1914, p. 200.**

### **TITLE.**

**AN ACT** authorizing insurance companies organized under the laws of this State to make investments in addition to those now permitted.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That, in addition to the investments now permitted by law, any insurance company, organized under the laws of this State, may lend money to building and loan or homestead associations, also organized under the laws of this State; said loans to be secured by the pledge of vendors' lien notes owned by said associations in at least double the amount of the loans; provided that the funds representing the amount of deposit now required to be made with the State Treasurer shall consist only of the liquid assets now designated by law for such purpose.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## **COMPENSATION TO AGENTS.**

**Act 167 of 1902, p. 317.**

### **TITLE.**

**AN ACT** to regulate the operation of insurance companies, corporations, associations, individuals, and insurance agencies in the State of Louisiana, and prohibiting the payment of any commission, compensation or valuable consideration, to any but legally authorized agents, and providing the penalty for violations of this act.

**NON-RESIDENTS MAY NOT ISSUE POLICIES ON LIFE, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any insurance company, corporation or association, authorized to do business in this State, is hereby prohibited from authorizing or allowing any person, agent, firm or corporation who is a non-resident of the State of Louisiana, to issue or cause to be issued, any policy or policies, or contracts of agent, firm or corporation, authorized by the Secretary of State, or upon the lives or health of any person or persons residing in the State of Louisiana.

**PAYING COMMISSIONS TO NON-RESIDENTS PROHIBITED.**

Sec. 2. Be it further enacted, etc., That any person, agent, firm or corporation, authorized by the Secretary of State to act as an agent, solicitor or representative of any insurance company, corporation or association in the State of Louisiana, is hereby prohibited from paying directly or indirectly any commission, compensation, brokerage or other valuable consideration on account of any policy, policies or forms of contracts covering on property located in the State of Louisiana, or on the lives or health of any person or persons residing in the State of Louisiana, to any person, agent, firm, solicitor or representative not duly authorized by a certificate from the Secretary of State, to act as such agent, solicitor or representative for a company, corporation or association duly authorized to do business in the State of Louisiana.

**DUTY OF SECRETARY OF STATE TO INVESTIGATE VIOLATIONS.**

Sec. 3. Be it further enacted, etc., That whenever the Secretary of State shall have received notice or information of any violation of any of the provisions of this Act, he shall immediately investigate or cause to be investigated, such violation, and the Secretary of State is hereby authorized to require of the officers of any company, corporation, or association, which has been charged with violating any of the provisions of this Act, to make a specific oath before some proper officer competent to administer the oath within thirty days from date of the receipt of notice and request sent by the Secretary of State, by registered mail, that said company, corporation or association has not violated any of the provisions of this Act; any failure on the part of any such company, corporation or association, to make oath required by the Secretary of State within the said period of thirty days, from the receipt of notice sent by registered mail, will be sufficient cause for the Secretary of State, to revoke the license of any such company, corporation or association, for a period of three months, and cause the forfeit of the amount of license paid by such company, corporation or association, the balance of the year. Any person, agent, firm, solicitor or representative of any company, corporation or association, authorized to do business in this State, shall be likewise required to make oath before some proper officer competent to administer oaths within thirty days of a request sent to him by the Secretary of State, by registered mail, whenever he has been charged with a violation of the provisions of this Act, that he has not been guilty of same; any failure on his part so to do, will be sufficient cause for the Secretary of State to revoke his license for a period of three months for the first offense, and for the second offense, he shall have his authority to represent any insurance company, corporation or association in this State revoked for a period of one year, from the date of such revocation, and, the Secretary of State shall refuse to issue license for said agent, or any company, corporation or association for a period of twelve months. Whenever the Secretary of State has revoked the license of any agent, solicitor or representative of any company, corporation or association, authorized to do business in this State, it shall be his duty to notify all companies, corporations, or associations, authorized to do business in the State, and all companies, corporations or associations, are prohibited from paying any commission, compensation or valuable consideration, to any such agent, solicitor or representative, during the term of his revocation; any company, corporation or association that is guilty of paying any commission, compensation or valuable consideration to any agent, solicitor or representative, who has had his certificate of authority

revoked, shall lay itself liable to a revocation of its certificate of authority and the Secretary of State is hereby authorized to require an oath from such company, corporation or association, that it has not been guilty of same.

**AGENTS MUST OBTAIN CERTIFICATES FROM SECRETARY OF STATE.**

Sec. 4. Be it further enacted, etc., That no person shall act as agent, solicitor or representative of any insurance company, corporation or association, partnership or combination of persons incorporated, organized, associated or combined by virtue of the laws of this State, or any States of the United States, or any foreign country, directly, or indirectly, taking risks or transacting any kind of form of insurance business in this State, without being provided with a certificate of authority from the Secretary of State, showing him to be duly authorized to act as such agent, representative or solicitor, of duly authorized company, corporation or association.

**PENALTIES FOR VIOLATION.**

Sec. 5. Be it further enacted, etc., That any person who in this State, solicits or procures policies or risks from or in any insurance company, corporation or association, partnership or combination of persons, except such risks be upon his own property, or life or health, or who in any manner aids the transaction, of business in this State, by any such company, corporation or association, partnership or combination of persons, without having first secured a certificate of authority from this Secretary of State, showing his authority to act as such agent, shall lay himself liable to a penalty for having failed to do so, of a fine of not less than one hundred dollars, nor more than three hundred dollars, or to imprisonment for not less than thirty days, nor more than ninety days, upon conviction before a court of competent jurisdiction. Any agent, solicitor or representative, who attempts to solicit insurance or represent a company, corporation or association after his certificate of authority has been revoked, will subject himself to the same penalty and liability.

**ARREST OF PERSONS ACTING WITHOUT CERTIFICATE.**

Sec. 6. Be it further enacted, etc., That it shall be the duty of the District Attorney of the State to cause to be arrested and prosecuted any person or persons acting as an unauthorized agent, solicitor or representative within the limits of his district, whenever information against such person, agent, solicitor or representative has been properly filed with him.

Sec. 7. Be it further enacted, etc., That all laws and parts of laws in conflict herewith, are hereby repealed, and that this act shall take effect from and after its passage.

**DIVISION OF COMMISSIONS—WHEN PERMITTED.**

**Act 198 of 1908, p. 292.**

**TITLE.**

**AN ACT** permitting duly authorized insurance agents or solicitors of this State to divide commissions with insurance agents of other States.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for any duly authorized agent or solicitor of an insurance company, which has complied with the laws of this State, to divide his commissions or compensation from the premiums collected on policies, or other forms of contracts of insurance, covering on property located in the State of Louisiana, with any agent or solicitor who has been duly authorized under the laws of other States to act as agent or solicitor in such other States; provided that nothing herein shall be construed so as to permit companies to write business except through the duly authorized resident agents of this State.

**REBATES PROHIBITED.****Act 82 of 1886, p. 121.****TITLE.**

**AN ACT** regulating insurance companies conducting business in this State, either domiciliated, or by agent, as to the rebate allowed by same, and fixing the penalties for violation of the provisions of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall not be lawful for any insurance companies conducting or doing business in this State, whether same be domiciliated in this State, or doing business through an agent, to allow any rebate on any policy effected in their respective companies, but it shall be their duty to make the net premium, and such net premium shall appear in the body, and be embraced in said policy, and no rebate or allowance shall be made, either by endorsement on said policy or otherwise; nor shall it be lawful to give any rebate on open policies effected in any insurance company doing business in this State, either in money or in insurance scrip or otherwise.

**PREMIUMS ON BONDS OF ADMINISTRATORS, ETC.,  
PAYABLE BY ESTATE.****Act 76 of 1900, p. 127.****TITLE.**

**AN ACT** respecting premiums paid by liquidators, administrators, curators, tutors, receivers, syndics, and other similar officers, appointed or confirmed by the Courts.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any executor, administrator, curator, tutor, liquidator, receiver, syndic, or other similar officer appointed or confirmed by any court of the State of Louisiana, who is required to give a bond, shall be entitled to charge among the expenses of his administration the premium paid to any regularly incorporated surety company authorized to do business in this State, for the bond so given, provided that the amount of said premium shall not exceed one-half ( $\frac{1}{2}$ ) of one per centum upon the amount of the said bond.

**Sec. 2.** Be it further, enacted, etc., That this Act shall take effect from and after its promulgation, and that all laws and parts of laws inconsistent therewith are repealed.

**INSURANCE COMPANIES MUST GIVE BOND FOR  
PROMPT PAYMENT OF LOSSES.****Act 172 of 1908, p. 232.****TITLE.**

**AN ACT** requiring fire, life, accident and other kinds of insurance companies, other than surety and fidelity and fraternal societies, and insurance companies insuring against the breakage of plate glass only organized under the laws of other States, to give a bond payable to the State Treasurer conditioned for the prompt payment of claims arising in this State, and providing penalties for the enforcement of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all fire, life, accident and other kinds of insurance companies other than fidelity and surety and fraternal societies and insurance companies insuring against the breakage of plate glass only organized under the laws of other States, in addition to requirements now prescribed by law, shall, annually give a bond in favor of the State of Louisiana, with

at least three good and sufficient sureties, resident of this State, and approved by the State Treasurer, in the full sum of twenty thousand dollars (\$20,000.00), or a bond of a surety company authorized to do business in this State, conditioned for the prompt payment of all claims arising and accruing to any person during the term of said bond by virtue of any policy issued by any such corporation upon the life or person of any citizen of this State, or upon any property situated in this State, and such bond shall be annually renewed, and the old bond will become cancelled by the acceptance being full authority to the Clerk of Court where the old bond is recorded to make such cancellation on his records. Provided that no bond shall be canceled, or withdrawn unless a new bond has been substituted as above provided, or satisfactory evidence has been submitted to the insurance department that the company has discharged all of its obligations and liabilities in this State, and that it has no liabilities whatever outstanding in this State.

**Sec. 2.** Be it further enacted, etc., That the requirement of this Act shall not be construed to relieve any insurance company of the several duties now required by law, but the requirement of this Act shall be held to be and are intended to be in addition to the duties and requirements now prescribed by law. Provided that the provisions of this Act shall become effective from and after March 1st, 1909, when the present authority of companies now in the State will expire.

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## INTEREST.

### [Rate of Legal Interest.]

[R. S., Sec. 1883.] All debts shall bear interest at the rate of five per cent. from the time they become due, unless otherwise stipulated.

[R. S., Secs. 1884-1885.] Amending R. C. C. 2895 so that conventional rate shall not exceed eight per cent. Right to recover excessive interest. R. C. C., Art. 2924.

[R. S., Sec. 1886.] Damages to holders of protested circulating notes. R. S., Sec. 298, Title "Banks."

### [Rates Which Banks May Charge.]

[R. S., Sec. 1887.] Bankers and banking companies shall be entitled to charge and receive discount at a rate not greater than the maximum allowed by law on conventional obligations; and their other contracts shall be regulated by the laws in regard to interest upon contract between individuals.

Note. Act 204, 1914 p. 390 relating to the limit of the interest charge which may be imposed, etc., is not printed. The entire act was declared unconstitutional in State vs. Jackson, 137 L. 741.

[R. S., Sec. 1888.] Tutors liable for legal instead of highest conventional rate of interest. R. C. C., Art. 347.

[R. S., Sec. 1889.] Owner of promissory note, etc., may collect amount of note, though it includes interest at a rate higher than the conventional rate allowed. R. C. C., Art. 2924.

**[Discount of Paper by Banks.]**

[R. S., Sec. 1890.] From and after the passage of this act, the banking institutions of the State of Louisiana be, and they are hereby authorized, to discount paper at the rate of eight per cent. per annum interest.

**INTEREST ON JUDGMENTS IN *EX DELICTO* CASES.**

Act 206 of 1916, p. 459.

**TITLE.**

**AN ACT** to provide for legal interest from date of judicial demand on all judgments, sounding in damages, "ex delicto," and to repeal all laws in conflict therewith.

Be it enacted by the General Assembly of the State of Louisiana, that legal interest shall hereafter, attach from date of judicial demand, on all judgments, sounding in damages, "ex delicto," which may be rendered by any of the courts in this State.

Be it further enacted, etc., That all laws in conflict with the provisions of this act are hereby repealed and this act shall take effect from date of the passage thereof.

Note. The Act is not retroactive, and on causes arising before the passage of the act, interest in cases *ex delicto* will be allowed only from dates of judgment and not from judicial demand. *Tortorich vs. Yazoo & Miss. Valley R. Co.*, 142 L. 229, but see *Hill vs. Big Creek Lumber Co.* 108 L. 162.

**INTEREST TAX FUND.**

[R. S., Secs. 1891 to 1893.] Levy of tax to pay interest on State bonds. R. S., Secs. 3820 to 3822, Title "Auditor."

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**JUDICIARY DEPARTMENT.****CONSTITUTIONAL PROVISIONS.**

Bill of Rights, Arts. 2, 6, 7, 9, 10, 11, 12, 13.

Supreme Court Arts. 85 to 89, 92 to 96.

Courts of Appeal, Arts. 98 to 106.

District Courts (Orleans excepted), Arts. 107 to 117.

Juvenile Courts, Art. 118.

Justices of the Peace, Arts. 126, 127, 128.

Courts in Parish of Orleans:

Court of Appeal, Arts. 130, 131, 132.

Civil District Court, Arts. 133 to 136, 150.

Criminal District Court, Art. 139, 150.

City Criminal Courts, Art. 140.

Recorders' Courts, Art. 141, 151.

City Courts, Arts. 143, 147.

**SUPREME COURT.**

[R. S., Sec. 1894.] Fixes time at which court shall hold sessions at various places, now governed by Const., Art. 88, and Act 149 of 1906, p. 253, printed *infra*.

## ANNUAL SESSION IN NEW ORLEANS.

Act 149 of 1906, p. 253.

**TITLE.**

AN ACT to establish the session of the Supreme Court in accordance with the provisions of Article 88 of the Constitution of the State.

**DURATION OF SESSION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Supreme Court shall hold an annual session in the city of New Orleans, beginning on the first Monday in the month of October and ending not sooner than the thirtieth day of June following in each year. And this session shall be extended beyond the latter date, when the public business before the court requires such extension.

**REPEALING CLAUSE.**

Sec. 2. Be it further enacted, etc., That all laws, or parts of laws, in conflict with this act, be, and the same are hereby repealed.

[R. S., Secs. 1895 to 1908.] Fix return days for appeals from the various parishes. Now fixed by Act 106 of 1908, p. 163, printed *infra*. Earlier acts on the subject are Act 69 of 1894, p. 80; Act 78 of 1898, p. 100; Act 92 of 1900, p. 150.

## RETURN DAYS.

Act 106 of 1908, p. 163.

**TITLE.**

AN ACT relative to appeals to the Supreme Court, and providing for return days therein.

**LIMIT OF TIME FOR RETURN DAYS IN APPEAL CASES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Judges of all the courts throughout the State shall fix the return days in all cases, civil or criminal, appealable to the Supreme Court, provided, that the Judge shall fix the return day in the order granting the appeal which shall not be less than fifteen nor more than sixty days from the date of the order, except by consent of parties.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed, and that this Act shall take effect from and after its passage.

Note. C. P., Arts. 586, 587, 588, 883.

Previous acts relating to return days are Act 45, E. S. 1870, p. 99; Act 69, 1894, p. 80; Act 98, 1898, p. 100; Act 92-100, p. 150; Act 108, 1898, p. 163. The whole subject is now governed by Act 106, 1908.

Under Act 45, E. S. 1870, p. 99, Sec. 1, returns from Orleans, Jefferson, St. Bernard, Plaquemines and Tangipahoa (as to Tangipahoa this was changed by Act 69 of 1894, p. 80) were returnable on the first and third Mondays of each month. Act 92 of 1900, p. 150, made all appeals from courts throughout the State (Orleans excepted) returnable "not less than fifteen nor more than sixty days from date of order," and in Brooks vs. Smith, 118 La. 758, the court held, that the return day was controlled by the Act of 1900. This, of course, applied only to cases from parishes other than Orleans, for the Parish of Orleans was specifically excepted. Act 106 of 1908, printed *supra* (this title), has in fact, though not in terms, repealed Act 92 of 1900, because the provisions of the two acts are identical, except that the earlier act exempts Orleans, while the later does not. Yet in State ex rel. Gulon vs. Peoples, etc., Co., 125 La. 983, the court held that Act 106 of 1908 "has never been held to apply to the Parish of Orleans." The Court, however, did not seem to think it necessary to decide the question in that case.

"The right to file a transcript of appeal within three judicial days following its fixed return day, has become a rule of practice acknowledged by the jurisprudence of the State, which this Court will not disturb." Wood & Roane vs. Wood, 52 A. 801; Posner vs. Southern, etc., Co., 108 La. 659; Lopes vs. Sahuque, 114 La. 1004; State vs. Cobb, 134 La. 207; but see State ex rel. Bourg vs. Marrero, 132 La. 109, and Larche vs. Martin, 135 La. 798. The days of grace are allowed whether the court is in session or not.

Lopes vs. Sahuque, 114 La. 1004. See Rosetta, etc., Co. vs. Adler, 52 A. 689.

Where an extension has been granted and return day fixed, days of grace are not allowed. *Hudson vs. Sheriff*, 47 A. 1584; *Building & Loan Assn. vs. Church*, 48 A. 1458; *Suc. Theriot*, 118 La. 648; *Brooks vs. Smith*, 118 La. 758.

An application to extend the return day on an appeal made one day after the last day of a prior extension, comes too late, and the right of appeal is lost. *Louisiana Ry. & N. Co. vs. Miller*, 114 La. 59.

The ex parte order granting an extension of the return day may be traversed by the appellee. *Oertling vs. Commonwealth B. & C. Co.*, 134 La. 26 (Other phases of the question are discussed in the opinion).

If an appellant files his transcript on the return day fixed by the Court, the appeal will not be dismissed, though the return day so fixed is for a day later than the term allowed by Act 106 of 1908. The appeal is saved by C. P., Art. 898. *Lazarus vs. Friedrichs*, 125 La. 619.

The return day or its extension cannot be extended by implication to the first day of the next term of the Supreme Court. *Brooks vs. Smith*, 118 La. 758. Where the return day is the first Monday in June, 1899, which fell on the fifth, the transcript is filed in time on the thirteenth, when the court was not in session on the twelfth. *Rosetta, etc. Co. vs. Adler*, 52 A. 688.

The inferior court is without authority to grant an extension of the return day fixed in the order granting an appeal. *State vs. Cobb et al.*, 134 La. 207; *State ex rel. Guiou vs. People's Fire Ins. Co.*, 125 La. 983.

The order for appeal read "appeal returnable according to law" appeal dismissed. *State vs. Jones*, 128 L. 637 (the Court distinguishes this case from those where the omission of the date is due to the error of the Court granting the appeal). The motion for appeal read "on motion of counsel for defendant it is ordered that said defendant \*\*\* be granted an appeal \*\*\* returnable before the Supreme Court of this State, according to law." Held the appeal would not be dismissed, as the failure to fix the return day was the act of the Court. *State vs. Augustus*, 129 L. 617; *State vs. Majors*, 131 L. 466, 132 L. 244. That an appeal was made returnable instantaneously is no cause for its dismissal. (The law is not less than fifteen nor more than sixty days). *Ross vs. Naff*, 130 L. 590.

Appeals in all cases civil or criminal are returnable to the Supreme Court in not less than fifteen nor more than sixty days, *State vs. Thomas*, 132 L. 377. An appellant has three days, after the return day fixed in the order of appeal within which to file his transcript, to apply for an extension of time, but the days are running and not judicial days. *State ex rel. Bourg vs. Marrero*, 132 L. 109. See note, p. 1012.

The trial judge after fixing the return day is without authority to extend it. The Supreme Court alone has the jurisdiction, and the day for filing the transcript will be counted from the day of return originally fixed. *State vs. Cobb*, 134 L. 207.

This act does not apply to appeals from orders appointing receivers. The appeal in such cases is governed by Act 159, 1898. *Kerlin vs. Bryceland Lumber Co.*, 134 L. 463.

As the return days of appeals fixed by Act 45 E. S. 1870 do not control, in so far as the act is in conflict with the Act of 1908, the former is repealed by implication. *State ex rel. Duffy vs. Gaff*, 135 L. 335.

Appeals to the Court of Appeal for the Parish of Orleans are returnable according to Act 106, 1908, and appellants must file their appeal on the date fixed for the return day if one was fixed, or within three calendar, not judicial days thereafter. *Laroch et al. vs. Martin*, 135 L. 798.

The rule that an appeal will not be dismissed where the error in fixing the return day fixed by Special Acts for certain cases, as well as for appeals taken under the general act relative to appeals. *Louisiana Ry. & Nav. Co. vs. Baton Rouge Brickyard*, 136 L. 833.

## SUPREME COURT—APPEALS, PROCEEDINGS, ETC.

**Act 45, E. S. 1870, p. 99.**

### TITLE.

**AN ACT relative to the Supreme Court, and to regulate the terms thereof, the proceeding therein, appeals thereto, and processes against the sureties on appeal bonds.**

Sections 1 to 3 provide for the return day of appeals, etc., superseded by Acts 108, 1898 and 106, 1908, both printed supra this title.

Sec. 4. Return day of appeals fixed by trial Judge, Repealed by Act 92, 1900, p. 150. *Brooks vs. Smith*, 118, La. 758, id 761. Act 92 of 1900 was repealed by Act 106, 1908, printed infra, the latter act being identical with the former, except that the first exempted the Parish of Orleans, and the last act did not.

### FIXING CASES FOR HEARING.

Sec. 5. Be it further enacted, etc., That upon the return day for appeals from the several parishes, as fixed by law, the Supreme Court shall take them up in their order, except as hereinafter provided, and dispose of the same.

**SAME SUBJECT**

Sec. 6. Be it further enacted, etc., That during the times fixed by law for the trial of appeals from the other parishes, the Supreme Court, while sitting in New Orleans, may also fix and try appeals from the parish of Orleans, provided it does not interfere with or delay the trial of the cases from the other parishes.

**RETURN DAY FOR CASES INVOLVED.  
RIGHT TO OFFICE.**

Sec. 7. Be it further enacted, etc., That in all cases in which the right to office is involved, and an appeal is taken from the judgment of the lower court, it shall be returnable within ten days after judgment of the lower court, and the Supreme Court, on the motion of either party, shall proceed to try the same by preference.

**APPEALS IN CRIMINAL CASES.**

Sec. 8. Be it further enacted, etc., That appeals in all criminal cases may be made returnable within ten days, and the appellant shall have the right to make it returnable before the Supreme Court at (is) (its) next term, wherever held, and all appeals in criminal cases shall be tried by preference over civil cases.

**CASES FOR OR AGAINST POLICE JURIES, ETC.**

Sec. 9. Be it further enacted, etc., That in suits pending on appeal, in which a police jury or municipal corporation is plaintiff or defendant, it shall be the duty of the Supreme Court, on the affidavit of the attorney representing the police jury or corporation, that the case is one of serious public interest, and in which a speedy decision is desirable, to have the case called and set for hearing by preference.

**COURT MAY ESTABLISH RULES.**

Sec. 10. Be it further enacted, etc., That the Supreme Court shall have full power to establish and enforce such rules (not inconsistent with law) as may be necessary to secure the regular and expeditious disposition of its business, and the preparation of proper and correct transcripts of appeal. To prevent the accumulation of cases on the docket, the Supreme Court may, during the latter portion of the annual sessions at New Orleans, hear and take under advisement (in addition to cases it can decide from week to week) such number of cases as the judges of the court may be able to examine during the vacation, and render opinions therein at the opening of the following session, and may require such cases to be submitted on briefs.

**CASES FOR WHICH COURT SHALL NOT DISMISS APPEALS.**

Sec. 11. Be it further enacted, etc., That no appeal of the Supreme Court shall be dismissed on account of any defect, error or irregularity of the petition, citation or order of appeal, or in the certificate of the clerk or judge, or in the citation of appeal or service thereof, or because the appeal was not made returnable at the next term of the Supreme Court, or on a proper day, whenever it shall not appear that such defect, error or irregularity may be imputed to the appellant or his attorney; but in all cases the court shall grant a reasonable time to correct such defects, errors or irregularities, in case they are not waived by the appellee, and may impose upon the appellant such terms and conditions as in its discretion it may deem necessary for the attainment of justice.

**DECREE AGAINST SURETY ON APPEAL BONDS.**

Sec. 12. Be it further enacted, etc., That in all cases of appeal to the Supreme Court, or other tribunals in this State, if the judgment appealed from be affirmed, the party in whose favor it is rendered may, on return of execution in the lower court that no property has been found, or not enough to satisfy the judgment and execution, after due demand on both parties, or their attorneys or legal representatives, obtain a decree against

the surety on the appeal bond, or his legal representative, for the amount of the judgment or any unsatisfied balance thereof, on motion, after ten days' notice, which motion shall be tried summarily and without the intervention of a jury, unless the surety or his legal representative shall allege, under oath, that the signature to the bond, purporting to be that of the surety, is not genuine, or that judgment has been satisfied.

#### ADJOURNMENT OF COURT.

Sec. 13. Be it further enacted, etc., That the Supreme Court may be adjourned from day to day by one or more of its judges until a quorum be convened, and if neither of the judges be present on the day fixed by law for the commencement of the term, the clerk may adjourn it in like manner for ten days.

#### POSTING RULES.

Sec. 14. Be it further enacted, etc., That the rules adopted by the Supreme Court shall be entered in the minutes of the court, and a copy thereof posted in the Clerk's Office, and one in the Court room.

#### REPEALING CLAUSE.

Sec. 15. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with the provisions of this act, be and the same are hereby repealed, and that all appeals now pending in the Supreme Court, which will require transfer to accomplish the purposes of this act, be and the same are hereby transferred, and power is hereby given the Supreme Court to compel and regulate such transfer.

Note. See note to act 106, 1908, printed at p. 1012.

[R. S., Sec. 1909.] Adjournment until quorum is had, superseded by Sec. 13, Act 45, E. S. 1877, printed *supra*.

[R. S., Sec. 1910.] Transfer of pending causes from court organized under Const. of 1864 obsolete.

Note. Transfer of cases under Const. 1879, Art. 261, Act 29, 1880. See Raymond et al. vs. Conery, 50 A. 155. Const. 1898, Art. 325, paragraph "Seventh." Const. 1913, Art. 326, paragraph "Seventh." For transfer of cases pending at Monroe, etc., under the old system, see Act 68, 1884, p. 81, Sec. 3.

[R. S., Sec. 1911.] Appeals for cases under Sect. 2593 *et seq.*, Title "Office," Usurpation, etc., of Office. How returnable. Preference in Supreme Court identical with R. S. 2604, which see.

[Reargument of Cases Submitted, but Not decided at Previous Term.]

[R. S., Sec. 1912.] Whenever the Supreme Court of this State shall, for any cause, fail to render a decision in any case pending before that court at the term during which such case was argued, it shall be lawful for either party in such case to have said case fixed for reargument, *orally*, or by *brief* at the next succeeding term of said court; provided the motion for such reargument be filed with the Clerk on or before the first day of such succeeding term.

[R. S., Sec. 1913.] Jurisdiction of appeal in contested election cases. Identical with R. S., Sec. 1434, which see.

[R. S., Sec. 1914.] Appeals from District Courts taken since June 1, 1860, and still pending are entitled to preference, obsolete.

**[Cases Which Go On Summary Docket of Supreme Court.]**

[R. S., Sec. 1915.] (As amended by Act 70, 1872, p. 122.) The Supreme Court of the State of Louisiana shall have a docket, to be called upon the Summary Docket, on which the Clerk of the said Court shall enter, in the order in which they are filed, all cases involving the distribution of money or effects in the hands of executors, or other representatives of successions, funds or effects in the hands of a sheriff, or other public officer, received in his official capacity, or amounts retained out of the price bid by a purchaser at sheriff's sales; also, cases involving the validity of wills, or cases in which parties as heirs claim to be put in possession of property, money or effects belonging to any succession; also, funds or effects in the hands of syndics or insolvents or receivers appointed by order of court; also, funds and effects in the hands of a garnishee or a depository against the same, and in all cases where the constitutionality or legality of any state, parish or municipal tax is called in question, or in which the collection of any such tax is delayed or obstructed by any legal process.

**1—TRIAL OF APPEALS IN SUPREME COURT.**

**Act 17 of 1876, p. 36.**

**TITLE.**

**AN ACT to regulate the trial of appeals in the Supreme Court of the State of Louisiana.**

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the Supreme Court of the State of Louisiana shall have a docket to be called the summary docket on which the clerk of said court shall enter in the order in which they are filed:

1. All appeals in criminal cases, and all civil cases where the State is a party through its authorized counsel.
2. All cases in which the constitutionality or legality of any State, parish, or municipal tax is in question, or its collection delayed or obstructed by legal process.
3. All cases in which the right to public office is involved.
4. All cases involving the distribution of money or other property in the hands of executors, or other representatives of successions, or in the hands of sheriffs, or other public officers, or of receivers or garnissees.
5. All cases involving the validity of wills, or cases in which parties as heirs claim to be put in possession of property, money or effects of a succession.
6. All cases for the expulsion of tenants under the act relative to "Landlords and Tenants," approved March 15, 1855; from judgments for the payment of alimony; and from judgments upon awards of arbitrators, amicable compounders, or referees; and from judgments against sureties upon judicial bonds and injunction cases.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its passage.

## **2—TRIAL OF APPEALS IN SUPREME COURT.**

**Act 22 of 1878, p. 45.**

### **TITLE.**

**AN ACT** to further regulate the trial of appeals in the Supreme Court of the State of Louisiana.

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That any cases in which payment is sought of any bill, note, or other written unconditional obligation to pay money, shall be tried in the summary docket of the Supreme Court, and be called and tried as other summary cases.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its passage.

## **3—TRIAL OF APPEALS IN SUPREME COURT.**

**Act 15 of 1880, p. 21.**

### **TITLE.**

**AN ACT** to further regulate the trial of appeals in the Supreme Court of the State of Louisiana.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all cases for divorce or separation from bed and board, all cases for recovery of wages, salary or compensation for personal or professional services, shall be tried on the summary docket of the Supreme Court, and be called and tried as other summary cases.

## **4—TRIAL OF CAUSES ON ORDINARY DOCKET.**

**Act 28 of 1880, p. 29.**

### **TITLE.**

**AN ACT** to facilitate the trial of causes on the ordinary docket of the Supreme Court of the State of Louisiana.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in fixing causes for trial, the Supreme Court of the State of Louisiana shall assign at least one-half the number from the ordinary docket; provided, all cases in which the State is plaintiff shall have preference.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with this Act are hereby repealed.

## **5—TRIAL OF CAUSES IN SUPREME COURT.**

**Act 70 of 1884, p. 93.**

### **TITLE.**

**AN ACT** relative to the trial of causes before the Supreme Court.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the Supreme Court is authorized to regulate the trial of causes before it and to change existing rules, as in their opinion, may be deemed advisable for a better administration of justice.

**Sec. 2.** Be it further enacted, etc., That all laws on this subject matter and all laws in conflict herewith are hereby repealed.

**6—TRIAL OF ACTIONS ARISING EX DELICTO.****Act 17 of 1916, p. 47.****TITLE.**

AN ACT to provide that all suits or actions for damages arising ex delicto shall be tried by preference.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all suits or actions for damages, arising ex delicto the same shall be placed upon the preference docket of all the courts in this State and shall be tried along with such other preference cases as is now provided by law.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws contrary to or inconsistent herewith, be and the same are hereby repealed.

**7—TRIAL OF CAUSES ON ORDINARY DOCKET.****Act 29, E. S. 1917, p. 43.****TITLE.**

AN ACT to facilitate the trial of causes on the ordinary docket and preference docket of the Supreme Court of Louisiana, and repealing all conflicting laws.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That hereafter in fixing causes for trial in the Supreme Court, at least every alternate sitting shall be devoted to the trial of cases taken from the ordinary docket of the Court, and said ordinary cases when fixed and not tried shall be continued in the same manner as preference cases are continued under the rules of said Court.

Sec. 2. Be it further enacted, etc., That any preference case or ordinary case, may be advanced under each classification, in the discretion of the Court, upon an application made under oath by the counsel of the applicant, showing the urgency and necessity for such advancement, and after service of the said application shall have been made upon the opposing counsel.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict with this Act are hereby repealed.

**8—TRIAL OF INTERDICTION SUITS IN SUPREME COURT.****Act 166 of 1914, p. 285.****TITLE.**

AN ACT to further regulate the trial of appeals in the Supreme Court of the State of Louisiana.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all suits for interdiction shall be placed on the summary docket of the Supreme Court, and shall be called for trial by preference over all other cases, except cases in which the State of Louisiana may be a party.

Sec. 2. Be it further enacted, etc., That this Act shall take effect from and after its passage.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

**9—TRIAL OF INTERDICTION SUITS IN SUPREME COURT.****Act 226 of 1914, p. 424.****TITLE.****AN ACT** to provide for summary trials in interdiction suits.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That interdiction suits shall be tried by the District Court and the Supreme Court, of Louisiana, summarily and with preference over all other cases, except criminal cases.

Sec. 2. Be it further enacted, etc., That all laws on the same subject matter, or in conflict therewith are repealed.

**TRIAL OF CAUSES FOR REMOVAL OF JUDGES.****Act 122 of 1880, p. 156.****TITLE.****AN ACT** relative to suits, and the trial thereof, before the Supreme Court of the State, for the removal from office of judges of the courts of appeals, of district courts throughout the State, and of the city courts for the parish of Orleans, under the provisions of Articles 196 and 200 of the State Constitution.**JUDGES OF COURT OF APPEAL AND DISTRICT COURT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all suits for the removal from office of any judge of the courts of appeal, of the district courts throughout the State, or of the city courts for the parish of Orleans, for any of the causes specified in Article 196 of the State Constitution, shall be brought and instituted, pursuant to Article 200 of the Constitution, before the Supreme Court of the State, by petition, and the pleadings, citations and all the proceedings therein, shall be made and had as is now provided for, and practiced before the district courts of the State in cases of usurpation in office, except in so far as may be otherwise provided in the State Constitution and herein.

**BY WHOM SUITS MAY BE INSTITUTED.**

Sec. 2. Be it further enacted, etc., That all such suits shall be instituted by the Attorney General, or a district attorney, in the name of the State, on his relation, and he shall allege that that suit is instituted on the written request of fifty or more citizens and taxpayers residing within the territorial jurisdiction of the court the judge of which is sought to be removed, and he shall set forth, in his petition, the names of such citizens and taxpayers.

**CITIZENS MAY EMPLOY COUNSEL.**

Sec. 3. Be it further enacted, etc., That the citizens and taxpayers at whose request the suit is instituted, shall have the right, at their own exclusive cost, to employ counsel to aid the State's attorney in instituting and conducting the same.

**ORDERS WHICH SUPREME COURT MAY MAKE.**

Sec. 4. Be it further enacted, etc., That Supreme Court, in the exercise of its original jurisdiction in such cases, shall have the power to grant all orders and to issue and to cause to be issued all writs, summonses, warrants, commissions and all other process that may be necessary to secure a fair hearing and just trial thereof. It shall have the power to adopt all rules of court it may deem proper, and which may not be established or prohibited by law.

**WHEN PERSONAL APPEARANCE OF DEFENDANT MAY BE HAD.**

Sec. 5. Be it further enacted, etc., That said court shall, in all such cases, when the incompetency of the defendant judge, arising out of want of sufficient learning, or mental incapacity, shall be at issue, have the power to cause such defendant, on its own motion, or on that of any party

to the suit, or of any of the persons at whose request same shall have been instituted, to appear before it in person, in open session, there and then to answer any pertinent questions that may be put to him; provided, that should the court over which such judge presides be in session at the same time with the session of the Supreme Court at which the case is to appear, the personal appearance of such judge shall not be required until such time as he may do so without interfering with and interrupting the session of his court.

**TRIALS ARE SUMMARY.**

Sec. 6. Be it further enacted, etc., That all such suits shall be summary in their nature, and shall be tried without the intervention of a jury. Either party thereto may make motions for new trials, in the same manner and form and on the same ground in and on which such motions may be made within three days after final judgment; and provided, further that all such motions be made and disposed of before the final adjournment of the session at which said judgment may have been rendered. Upon the expiration of the delays for making motions for new trials, no motion for a new trial having been made, or on the overruling of such motion, if one has been made, the judgment being signed, shall take effect and be executory.

**COSTS, HOW PAID.**

Sec. 7. Be it further enacted, etc., That in all such cases the defendant judge shall be condemned to pay the costs, if judgment be rendered against him; otherwise, judgment for costs shall be rendered as is provided for in Article 200 of the State Constitution.

Note. Const. Arts. 217 to 222.

Note. The State on the relation of the Attorney General had instituted proceedings to remove a judge from office and the court had so decreed and had ordered the defendant to pay the costs. The stenographer employed to take the testimony sought to have the costs taxed against the State, as the plaintiff in the proceeding, primarily liable for costs. Held no judgment could be rendered against the State, except in the manner and on the conditions, it has prescribed. State ex rel. Cunningham vs. Lazarus, 40 A. 856.

**COURT MAY HEAR CERTAIN CASES DURING VACATION.****Act 15 of 1900, p. 21.****TITLE.**

AN ACT to authorize the Supreme Court of the State to try and decide, at chambers, either during term time or at vacation, cases coming under their jurisdiction, under Articles 94 and 101 of the Constitution.

**MAY HEAR CERTAIN CASES IN CHAMBERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Supreme Court of the State of Louisiana shall have the authority to hear and decide, at chambers, either during term time or at vacation, all cases coming before them, under the supervisory powers conferred upon them by Articles 94 and 101 of the Constitution of this State.

**WHEN DECISIONS BECOME FINAL.**

Sec. 2. Be it further enacted, etc., That such decisions, when rendered in term time shall become final within six judicial days, or when rendered at vacation and subject to rehearing, shall become final and executory, after six calendar days, unless within the delay the parties in interest apply for rehearing. The Court is authorized to consider and dispose of such applications at chambers.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws or parts of laws, contrary to or inconsistent with the provisions of this Act be and the same are hereby repealed.

**WHEN JUDGMENTS IN SUPREME COURT BECOME FINAL.****Act 223 of 1908, p. 341.****TITLE.**

**AN ACT to fix the delay within which judgments rendered in the Supreme Court shall become final.**

Be it enacted by the General Assembly of the State of Louisiana, That judgment rendered in the Supreme Court of the State shall become final the executory on the fifteenth calendar day after rendition, in term time and out of term time, unless the last day shall fall on a legal holiday, when the delay shall be extended to the first day thereafter not a legal holiday; provided, that in the interval parties in interest shall have the right to apply for rehearing; provided, further, in the recess of the Court, the Court shall have the right to dispose, at chambers, of applications for rehearing.

Note. The original decree was rendered 30 November, 1908, application for rehearing was made 10 December, 1908. Rehearing granted 18 January, 1909. Order made 18 January, 1909, was therefore improvidently granted and must be set aside. *Board vs. Baker*, 123 L. 75, 87. (Note that application was made less than fifteen calendar days after rendition. From the decision it would appear, that the order granting a rehearing must be made within fifteen calendar days.) An application for a rehearing in a case which has been decided by the Supreme Court, has the effect of preventing the judgment from becoming final in whole or in part, whilst the court is deliberating thereon, and the whole case remains in the court, though the rehearing is granted in terms restricting it to particular issues. *Bloomfield et al. vs. Thompson*, 134 L. 923. For the purpose of correcting a clerical error, which forms the basis of its judgment (in the instant case an error in subtraction) the court has jurisdiction to amend the judgment, though the delay allowed for a rehearing has elapsed, and though the motion to amend is made at a term subsequent to the one at which the judgment was rendered, the judgment not having been sent to the District Court for execution. *State vs. Williams Cypress Co.* 132 L. 949. Under the act, an application for a rehearing comes too late if filed on the day the judgment of the Supreme Court becomes executory. The decree was handed down 11 January, 1915. Application for rehearing was filed 26 January 1915. *Peterson vs. Louisville & N. R. R. Co.*, 136 L. 460.

Note. Act 75, 1906, fixes fees, printed under R. S. Sec. 758.

**EFFECT OF RENDITION OF DECREES IN APPELLATE COURTS.****Act 190 of 1918, p. 362.****TITLE.**

**AN ACT to authorize the registry and regulate the effect of decrees of Appellate Courts in the interim between the date of this rendition and the date when they become final, and to repeal all laws in conflict with the provisions of this act.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That when any decree has been rendered by any court of appeal, or by the supreme court, any party to the suit in which said decree may have been rendered shall have the right to demand a copy of the said decree, and to have same registered in either the mortgage or conveyance office of any parish in this State without regard to whether an application for a writ of certiorari or review, or for a rehearing, has or has not been made.

Sec. 2. Be it further enacted, etc., That the registry of a decree according to the provisions of Section 1 of this act shall operate as a judicial mortgage, or as a recognition of title, or otherwise, according to the terms of said decree, and shall continue to have that effect unless set aside or modified by the final decree in the proceeding.

Sec. 3. Be it further enacted, etc., That nothing in this act shall be construed to permit a writ in execution of a decree to issue until said decree is final.

Sec. 4. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

[R. S., Sec. 1916.] Preference in all courts for "legal proceedings instituted to avoid delay, or in anywise obstruct the collection of tax levied under \* \* \* an act levying a special tax \* \* \* for the payment of the past-due interest on the bonds of the State, \* \* \* approved September 29, 1868," obsolete.

[R. S., Secs. 1917, 1918.] Preference for Expropriation Cases in District and Supreme Courts. See Secs. 1489, 1490.

[R. S., Sec. 1919.] Property expropriated goes clear of mortgages to purchaser on deposit of fund in court. See R. S., Sec. 1491.

[R. S., Sec. 1920.] Preference in Supreme Court for expulsion of tenants. See R. S., Sec. 2163 and act printed *supra* this title.

[R. S., Sec. 1921.] Time within which suspensive appeal must be taken. Bond, Surety, etc. Now C. P., Art. 575.

**[When Judge of Appellate Court Must Recuse Himself.]**

[R. S., Sec. 1922.] Whenever, in any case before the Supreme Court, or any other Court having appellate jurisdiction, the judgment appealed from shall have been rendered, in the first instance, by any Judge of the said Appellate Court, at a time when he was a Judge of the Court of original jurisdiction, it shall be the duty of said Judge *ex-officio* to recuse himself, without its being necessary that a motion be made to that effect by any of the parties.

**SALARIES OF JUSTICES OF SUPREME COURT.**

**Act 74 of 1906, p. 115.**

**TITLE.**

AN ACT fixing the salaries of the Chief Justice and Associate Justices of the Supreme Court.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the chief justice and each of the associate justices of the Supreme Court shall receive a salary of six thousand dollars per annum, payable monthly on his own warrant.

Sec. 2. This Act shall take effect as soon as promulgated.

Note. Const., Art. 86. Term of Office, etc. Retirement on full pay when reaching age of seventy-five, after fifteen years' service.

**TRANSFER OF CASES TO APPELLATE COURT HAVING JURISDICTION.**

**Act 19 of 1912, p. 25.**

**TITLE.**

AN ACT to amend and re-enact Act No. 56 of the Acts of 1904, entitled "An Act relative to the jurisdiction of the Supreme Court and Courts of Appeal and to authorize either court to transfer to the other the record in any case where the appeal was brought up through mistake in the

**jurisdiction, instead of dismissing the appeal," by authorizing the Supreme Court to transfer to the Court of Appeal any case that may be erroneously transferred to the Supreme Court by the Courts of Appeal, to be there proceeded with as if it had never been transferred to the Supreme Court.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in any case otherwise properly brought up on appeal to the Supreme Court, or to any of the Courts of Appeal throughout the State, the Judges of said Courts shall have the right, in cases where the appellant or appellants shall have appealed to the wrong Court, to transfer said cause to the proper Court instead of dismissing the appeal, and the Court to which said cause shall have been transferred, will proceed with the same in the same manner as if said case had been originally appealed to the proper Court. Provided, further, that if the Supreme Court shall find that a case has been erroneously transferred by a Court of Appeal to the Supreme Court, the latter Court shall not dismiss the appeal, but shall re-transfer such case to the Court of Appeal, to be there proceeded with as if it had never been transferred to the Supreme Court.

**Sec. 2.** Be it further enacted, etc., That the judges of either Court shall regulate the costs incurred by the appellant and proceedings to be had in such cases.

**Sec. 3.** Be it further enacted, etc., That this Act shall apply to all cases now pending as well as to future cases and shall take effect from and after its passage.

**Note.** The Court will ex proprio motu notice want of jurisdiction and order transfer where proper affidavit is made (*Schutten vs. Schaffhausen*, 115 La. 199; *Netter vs. Riggio*, 113 La. 723). Affidavit must be made within six judicial ways. (*Suc. of Fullerton*, 114 La. 227.) But see Act 223 of 1908, which makes judgments final in fifteen calendar days. In *Ruston Ice & Fuel Co. vs. Compress Co.*, 120 La. 474, the Court said appeal will be held for ten days subject to appellant's right to transfer, failing to do so appeal would be dismissed.

After the dismissal of an appeal to the Court of Appeal has become final, an appeal direct from the District Court to the Supreme Court will be dismissed by the latter court and not transferred to the Court of Appeal. Appellant should have applied for a writ to review the dismissal of the appeal by the Court of Appeal, before it became final. *Muntz vs. Jefferson Ry. Co.*, 114 La. 860.

The Supreme Court may in its discretion dismiss or transfer an appeal improperly lodged in that court, and where the effort is made to give the Supreme Court jurisdiction by inflating a claim for damages, the appeal will be dismissed. *Samuel, etc. Church vs. Thomas*, 117 La. 253. The appellate court has jurisdiction to decide whether the appeal should be dismissed or transferred. Art. 56 of 1904 does not confer a jurisdiction not already granted by the Constitution. *Bolden vs. Barnes*, 118 La. 273.

Two cases were tried together, but separate judgments rendered. Held, that the amount involved in one of them being below the jurisdictional minimum of the Supreme Court, the appeal will be transferred. *Arcadia Cotton Mills vs. Fisher*, 120 La. 1076. See, also, *State vs. Scuttari*, 121 La. 220.

A mandamus proceeding to establish relator's right to office involves the fees of that office, and an appeal erroneously taken to the Supreme Court will be transferred to the Court of Appeal. *State ex rel. Rogers vs. Parsons*, 120 La. 203.

Where affidavits filed in Supreme Court show the land in controversy to be worth more than two thousand dollars, the case will not be transferred to the Court of Appeals. *Garret vs. Spratt*, 131 L. 707. Where the amount claimed is \$2,000 with interest the case will be transferred. *Jones vs. Tex. & Pac. Ry. Co.*, 134 L. 838. There was no money demand in a petition for injunction, which was dissolved on a bond for \$500 and the bond of appeal was fixed at \$100. The case was transferred to the court of appeal. *Blache vs. Greco*, 134 L. 978. The Court of Appeal ordered a case transferred to the Supreme Court. Held that appellants properly filed a transcript—not the original record—in the Supreme Court, and that it was not necessary to name a return day. *Landry et al. vs. McWilliams*, 135 L. 635. The Act gives the Supreme Court the right to transfer any case to the Court of Appeal within its jurisdiction; but the statute does not compel a transfer of the appeal instead of dismissing it. *Lafayette Realty Co. vs. Poer*, 136 L. 472. The Court of Appeals transferred to the Supreme Court a case which the Supreme Court found was within the jurisdiction of the Court of Appeal. Held that the case would be transferred to the Court of Appeal, there to be proceeded with, as if it had never been transferred. *Jang & Sons vs. Trosclair*, 139 L. 321. Where the record does not disclose that the salary or emoluments of an office in contest exceed \$2,000, and the District Court has declared the statute unconstitutional, the Supreme Court is without jurisdiction. But it has authority to dismiss the appeal instead of transferring it to the Court of Appeal, though the matter be within the jurisdiction of that court. *Landry vs. Gon-sales*, 142 L. 577.

## EDITING AND PRINTING DECISIONS OF SUPREME COURT.

### Act 87 of 1900, p. 135.

#### **TITLE.**

AN ACT to provide for the editing and indexing of the Supreme Court decisions.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the State Printer be and he is hereby authorized to contract with a competent lawyer, who must be approved by the judges of the supreme Court, to edit and index the decisions of the Supreme Court before publication thereof, under the direction of said judges, at a rate of compensation not exceeding twelve hundred dollars a year.

Sec. 2. Be it further enacted, etc., That the compensation of the lawyer so contracted with shall be paid out of the General Fund, on monthly warrants, issued by the Auditor of Public Accounts upon the production of voucher of the State Printer.

Sec. 3. Be it further enacted, etc., That all laws and parts of law in conflict with or inconsistent with any of the provisions of this Act be and the same are hereby repealed.

Note. State ex rel. Thorpe vs. Frazee, 105 L. 250.

## CLERKS OF SUPREME COURT.

[R. S., Sec. 1923.] Appointment, Bond, etc., repealed by Act *infra*.

### Act 99 of 1916, p. 218.

#### **TITLE.**

AN ACT to provide for the appointment, removal, compensation and duties of the Clerk and Deputy Clerks of the Supreme Court, and additional compensation for the stenographers thereof, and the security to be given by said Clerk; for the collection, handling, application and disbursement of the fees and costs collected by said Clerk, and to repeal all conflicting laws and parts of laws.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That there shall be one Clerk of the Supreme Court and two Deputy Clerks, who shall be appointed by the court and shall be removable at its pleasure.

Sec. 2. Be it further enacted, etc., That the costs and fees now or hereafter established by law, and all other revenues of said Clerk shall be collected and held by him in the fund to be by him administered and disbursed as hereafter provided.

Sec. 3. Be it further enacted, etc., That, out of the said fund, shall be paid the necessary expense of the Clerk's office, and the following salaries:

- 1 Clerk, \$5,000.00 yearly.
- 1 Deputy Clerk, \$2,400.00 yearly.
- 1 Deputy Clerk, \$1,500.00 yearly.

For compensation for stenographers for the use of the justices of the Supreme Court, as authorized by Article 92 of the Constitution, in addition to the appropriation to be made for such purpose by the General Assembly under said Article, \$4,300.00 yearly; all of which shall be paid in monthly installments:

Provided, that, if the said fund be not sufficient for all of said purposes, the salary of the Clerk and the salaries of the two Deputy Clerks shall be paid in preference to the compensation allowed the justices for stenographers.

**Sec. 4.** Be it further enacted, etc., That, on the 2d day of January, 1917, and annually thereafter, all of the surplus of said fund, in excess of \$3,000.00, remaining after payment of said salaries and expenses and the deficiencies, if any, for preceding years, shall be by said Clerk paid into the State Treasury to be held as a special fund to meet any future deficiencies.

**Sec. 5.** Be it further enacted, etc., That the said Clerk shall give bond with good surety conditioned for the faithful performance of his duties in the sum of \$10,000.00.

**Sec. 6.** Be it further enacted, etc., That the duties of said Clerk and Deputy Clerks shall be such as are now or may be fixed by law.

**Sec. 7.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**[Charges Against Clerk; How Tried.]**

[R. S., Sec. 1924.] Whenever any complaint shall be made against a Clerk of the Supreme Court, it shall be the duty of the court to appoint a day for hearing the evidence, when the court shall give such judgment as may be proper, and in the meantime the court may suspend the Clerk and appoint another pro tempore, when the nature of the charges, in their opinion, authorize the measure.

[R. S., Sec. 1925.] Duty of Clerks of Supreme Court at New Orleans and Monroe to deliver records made returnable at other places. Obsolete. Said court holds its sessions only at New Orleans. Act 149, 1906, printed at head of this title.

[R. S., Sec. 1926.] Judgments of Supreme Court, when final; right to apply for rehearing. C. P., Art. 911.

**CLERK AUTHORIZED TO ADMINISTER OATHS, ETC.**

**Act 139 of 1896, p. 218.**

**TITLE.**

**AN ACT** authorizing the Clerk of the Supreme Court of the State and his deputies to administer oaths and take acknowledgments.

Be it enacted by the General Assembly of the State of Louisiana, That from and after the passage of this Act, oaths and acknowledgments, in all cases, may be taken or made by or before the Clerk of the Supreme Court of the State and his deputies.

**APPOINTMENT OF CRIER FOR SUPREME COURT.**

**Act 93 of 1902, p. 149.**

**TITLE.**

**AN ACT** to provide for the appointment of a Crier for the Supreme Court and to provide for his compensation.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That there shall be a Crier for the Supreme Court of the State, who shall be appointed by the Judges of the Supreme Court, be commissioned by the Civil Sheriff of the Parish of Orleans as a Deputy Sheriff. The Crier so appointed and commissioned shall receive from the State Treasury on his own warrant approved by the Chief Justice the sum of \$900.00 per annum, payable monthly.

**COURTS OF APPEAL.****Constitutional Provisions.**

Art. 98. Jurisdiction.

Art. 99. Court to consist of three judges—salaries.

Art. 100. Number of circuits.  
Term of office of judges—eight years.  
Terms of court—First Monday in September to last day of June. Return of appeals to be fixed by court.

Art. 101. Court may certify questions to Supreme Court—Writs of review, etc.

Art. 102. No judgment without concurrence of two judges.  
Court may name district judge or member of the bar to sit in any given case.

Art. 103. Appeals heard on original record.

Art. 104. Rules of practice regulating practice in Supreme Court to control courts of appeal. Judges may issue writs of *habeas corpus*, etc.

Art. 106. Sheriff of parish where court is in session shall be in attendance—His fees.

**RETURN DAY, COURT OF APPEAL, ORLEANS.****Act 22 of 1914, p. 63.****TITLE.**

AN ACT to regulate the return day for appeals from District Courts to the Court of Appeal for the Parish of Orleans.

Be it enacted by the General Assembly of the State of Louisiana, That the return day for appeals from District Courts to the Court of Appeals for the Parish of Orleans, shall be fixed by the judge in the order granting the appeal; which return day shall be not less than fifteen nor more than thirty days from the date of the order, unless by the consent of the parties.

Note. See note to Act 106, 1908, printed at p. 1012.

**REVIEWS BY SUPREME COURT, ON CERTIFICATION, ON WRIT OF REVIEW.****Act 191 of 1898, p. 436.****TITLE.**

AN ACT relative to Courts of Appeal, and to carry out the provisions of Article 101 of the Constitution of this State.

**JUDGES MAY CERTIFY QUESTIONS TO SUPREME COURT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in any case pending before them in which the judges of the Courts of Appeal may desire the instructions or opinion of the Supreme Court on any question of law arising therein, the said judges shall submit to the Supreme Court, a clear and concise statement in writing signed by them of the points or propositions of law concerning which the opinion of that Court is desired and solicited. Should the Supreme Court deem an examination of the records necessary to a proper decision of the question of law so certified and submitted to it, it shall be the duty of the judges

of the Court of Appeals, on receipt of the written request of such officer to that effect, to forward the original record to the Clerk of the Supreme Court for the Court's consideration. And thereupon the Supreme Court may give its opinion on the points or propositions of law so submitted, which opinion, with the original record, shall be transmitted by the Clerk of the Supreme Court to the Court of Appeals. Said opinion shall be binding on the judges of the Court of Appeal, and they shall proceed to determine and dispose of said cause in conformity with the principles stated therein.

**RIGHT OF LITIGANTS TO WRIT OF REVIEW; REQUISITES.**

Sec. 2. Be it further enacted, etc., That within thirty (30) days after the rendition and entry of a judgment in any case, by the Court of Appeal, the party cast in the suit or any other party in interest, who may feel aggrieved thereby, shall have the right to bring said cause before the Supreme Court by writ of certiorari, mandamus or prohibition for its review and determination on questions of law or jurisprudence or concerning the jurisdiction of said Court of Appeals. The party desiring to avail himself of the remedy provided for by this section, pursuant to the provision of Article 101 of the Constitution of this State, shall, within the delay above mentioned, file in the Clerk's office of the Supreme Court, his petition and application, addressed to the Supreme Court or one of the Justices thereof, in which he shall set forth as briefly as possible the nature of the case, the issue therein and the questions of law, jurisprudence and jurisdiction involved; he shall also annex to said petition a statement or assignment of errors alleged to exist in the decree complained of. The petition shall be sworn to and the applicant shall file therewith a copy of the original petition and answer or other pleadings in the case. The Supreme Court may require such case to be certified to it by the Court of Appeals for its review and determination with the same powers and authority in the case as if it had been carried directly by appeal to said Court or it may require that the whole record be sent up for its consideration and thereupon shall decide the whole matter in controversy in the same manner as if it had been on appeal directly to the Supreme Court; provided, that nothing herein contained shall affect the authority and power of the Supreme Court to stay proceedings in the Courts of Appeal anterior to judgment to test the question of their jurisdiction "ratione materiae."

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

*Note. Act 190, 1918, Effect of Rendition of Decrees in Appellate Courts, printed at p. 1021.*

**WHO MAY APPLY FOR THE WRIT.**

Sec. 2 of the act in declaring that the party cast in the Court of Appeals, or other person in interest who may feel aggrieved by the judgment rendered, shall in any case have the right to bring the cause to the Supreme Court for review and determination, goes beyond the constitutional intendment, and as far as it goes, is not to be followed. Monroe Mercantile Co. vs. Elder, 51 L. 1773. Toole vs. Menge, 50 A. 748.

The parties authorized to apply for the review of a judgment of the Court of Appeals, are the parties cast in the judgment or some party in interest therein, and not some person interested in the question in issue. The State Tax Collector for one of the Districts in New Orleans is without right to apply for a writ in a case arising in another District. Bonner vs. Board, Etc. 52 A. 2062.

**NOTICE WHICH MUST BE GIVEN.**

Notice addressed to the parties to the suit, of the intention to apply for writ of certiorari must be filed in the office of the Clerk of the Court of Appeals before the application is filed in this court, and the affidavit of the filing must accompany the petition. Where the notice was not given, the writ will be recalled. Notice to the Court is not notice to the parties. Guillaume vs. Guillaume, 132 L. 413. The thirty days after final judgment in the Court of Appeal, within which the application for the writ must be filed in the office of the Clerk of the Supreme Court, will not be extended by adding to it the time it took to notify the attorneys in interest of the decision of the Court of Appeal. McFall vs. Tebault, 126 L. 243.

**APPLICATION FOR REHEARING ANNEXING DOCUMENTS, OATH.**

Failure of counsel to support his application for a rehearing in the Court of Appeal with a brief will not cause his application for a writ to be dismissed, when it

appears that the Court of Appeals denied a rehearing without referring to the failure to file a brief—after a writ of review has been granted, it is too late for opponent to the grant, to call the attention of the court to the failure of the applicant to annex to the petition for the writ, a copy of the original petition and answer or other pleadings. *Harrison vs. Ottman*, 111 L. 730, but see *Cooignet vs. Nelson*, 128 L. 414 on rehearing p. 420. The petition for the writ must be sworn to or the application will be refused, though the order to send up the record was issued, before the attention of the Court was directed to the absence of an oath. *Landry vs. Labarre*, 125 L. 714. *Landry et al. vs. Polrier et al.* 135 L. 731. The oath of the attorney is not sufficient. *North British & M. Ins. Co. vs. Sims*, 132 L. 411. Unless the applicant is absent or incapable. In such a case, the attorney may make it. *Stubbs vs. Fleming*, 135 L. 796. Where the applicant failed to annex a copy of the original petition, the application will be refused, though the order to bring up the record was issued, and more than three judicial days have passed since the record was filed in the Supreme Court. *Sip zale vs. Lacroix*, 128 L. 1063. Where however the case has been submitted and a decision rendered, a motion to dismiss the certiorari because copies of the original pleadings did not accompany the application for the writ, comes too late, although both parties have applied for a rehearing. *Lehman Dry Goods Co. vs. Lemoine*, 129 L. 382, 391.

#### TIME WITHIN WHICH APPLICATION MUST BE MADE.

Application for a writ of review must be made within thirty days after the rendition and entry of the judgment refusing a rehearing. The delay begins to run from the rendition and entry of the judgment in the Court of Appeal, and not from the date upon which such judgment may be filed in the District Court. In the absence of any suggestion to the contrary, it will be presumed that a judgment of the Court of Appeals was entered on the minutes the day it was rendered. *Landry vs. Ramos Lumber & Mfg. Co.*, 124, 1899. *Aucolin vs. Same*, 124 L. 601. *Simoneaux vs. Same*, 124 L. 602. *Summer vs. Jones*, 117 L. 910. The petition for the writ must be sworn to, if it is not the application will be refused, though the order to send up the record was issued before the attention of the Court was directed to the absence of the oath. *Landry & Son vs. Labarre*, 125 L. 714. The application for the writ must be filed in the office of the Clerk of the Supreme Court, within thirty days after the final decision of the Court of Appeals has been noted on the minutes. *Holiday & Sons vs. Joffron*, 134 L. 843. And this time cannot be extended by adding to it the time it took to notify the attorneys in interest of the decision of the Court of Appeal. *McFall vs. Tebault*, 126 L. 243.

#### ASSIGNMENT OF ERRORS.

An application for a writ of certiorari to the Court of Appeal will be dismissed, where no assignment of errors is embodied in or annexed to the petition. *State ex rel. Stewart vs. Minden*, 132 L. 938. It is too late to file the assignment after the case is submitted. *Rapier vs. Guedry*, 136 L. 443.

#### WHAT WILL BE CONSIDERED.

An issue which is not raised by the pleadings, and which has not been presented in argument, either in the District Court or Court of Appeals will not be considered in the Supreme Court on an application to review the judgment of the Court of Appeals. *North British & Mercantile Ins. Co. vs. Sims*, 132 L. 411. *Sintes vs. Commerford*, 112 L. 706. Nor can these new issues be raised by being embodied in the assignment of errors. *Rapier vs. Guedry*, 136 L. 443.

#### SUSPENSION OF JUDGMENT OF COURT OF APPEALS.

The filing in the Court of Appeal of the notice of intention to apply to the Supreme Court for a writ of review suspends execution of the judgment of the Court of Appeal during the thirty days, allowed for filing the petition, and thereafter until the final judgment of the Supreme Court on the application. *Salites vs. Southern Pub. Co.* 140 L. 739.

### SUBMISSION OF CAUSES FIRST CIRCUIT COURT OF APPEALS.

**Act 89 of 1914, p. 204.**

#### TITLE.

**AN ACT providing for the mode and manner in which cases shall be heard, submitted and finally disposed of by the Court of Appeals of the First Circuit of the State of Louisiana, providing for the apportionment of the costs of appeal in such cases, and providing for library and room for the use of the Judges of said Court.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the Judges of the Court of Appeals of the First Circuit of the State of Louisiana shall hold sessions of court at Lake Charles, Crowley, Opelousas, New Iberia, Franklin, Houma, Thibodaux, Donaldsonville, Amite and Baton Rouge, and such other places as may be designated by said Court of Appeals for the sole purpose of hearing arguments and

submission of cases; that immediately after the submission of cases, the Clerk of the District Court, where said cases are heard and submitted, shall transmit the records in such cases, with briefs therein filed, to the Clerk of the District Court of East Baton Rouge where the cases thus transferred shall be finally determined by said Court. Upon the rendition of judgment in such cases, the Clerk of the District Court of East Baton Rouge shall without delay return the records in all such cases to, and notify the Clerk of the District Court, where such cases originated, of the judgment so rendered by the said Court of Appeals in order that the party aggrieved may, if he so desires, apply for rehearing within the delay prescribed by law. That said application for rehearing shall be filed with the Clerk of the Court where said causes originated, whose duty it shall be to immediately forward the same together with the records in said causes to the Clerk of the Court at Baton Rouge.

Sec. 2. Be it further enacted, etc., That the deposit to be paid by the appellant for appeal, shall be apportioned as follows: Three and a half dollars shall be retained by the Clerk where the case has been heard, and one and a half dollars shall be by him forwarded and paid to the Clerk of the District Court of East Baton Rouge.

Sec. 3. Be it further enacted, etc., That a working library with room shall be furnished said Judges in the City of Baton Rouge.

## **WHEN JUDGMENTS BECOME FINAL IN COURT OF APPEAL.**

**Act 16 of 1910, p. 28.**

### **TITLE.**

**AN ACT to fix the delay within which judgments rendered in the Courts of Appeal shall become final.**

Be it enacted by the General Assembly of the State of Louisiana, That judgments rendered in the Courts of Appeal of the State shall become final and executory on the fifteenth calendar day after the rendition, except in cases of appeal from the City Courts of the City of New Orleans, which shall be and become final on the sixth calendar day after rendition in term time and out of term time, unless the last day shall fall on a legal holiday, when the delay shall be extended to the first day thereafter not a legal holiday; provided, that in the interval parties in interest shall have the right to apply for rehearing; provided, further, in the recess of the Court, the Court shall have the right to dispose at chambers of applications for rehearing.

## **CLERKS OF COURT OF APPEAL TO FURNISH COPY OF OPINION.**

**Act 233 of 1908, p. 349.**

### **TITLE.**

**AN ACT requiring the Clerks of the Court of Appeals throughout the State to furnish a certified copy of the opinion of the Court to be filed with the original papers.**

### **OPINION IN COURTS OF APPEAL TO BE FILED WITH ORIGINAL PAPERS; FURNISHED BY CLERK.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Clerks of the Court of Appeals shall furnish a certified copy of the opinion of the Court of Appeals in each case, to be filed with the original papers in the Clerk's office in the parish where the suit originated.

Sec. 2. Be it further enacted, etc., That this Act shall take effect from and after its promulgation.

**RECUSATION OF JUDGE OF COURT OF APPEAL.****Act 10 of 1880, p. 17.****TITLE.****AN ACT to provide for the trial of recused cases in Courts of Appeal.****CASES IN WHICH JUDGE SHALL BE RECUSED.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any Judge of the Courts of Appeal, elected under the Constitution of the State, adopted and ratified in 1879, or who may hereafter be elected, shall be recused in cases before his court of any of the following causes:

1. His being interested in the case; provided, that in all causes in which the State, the parishes, or political or religious corporations are interested, it shall not be sufficient cause to recuse the Judge to allege that he is a citizen or inhabitant of the State, or of the parishes, or a member of the said political corporations, or that he pays any State, parish or city license.
2. His being related to one of the parties within the fourth degree.
3. His having been employed or consulted as advocate in the cause.
4. His being the father-in-law, son-in-law, or brother-in-law of one of the parties.
5. His having performed any judicial act in the cause in any other Court.

**VACANCY CAUSED BY RECUSATION; HOW FILLED.**

**Sec. 2.** Be it further enacted, etc., That for the trial and determination of all causes where the following causes or recusation exist, the Judge or Judges shall appoint as follows:

1. In cases where one of the Judges shall be recused for any cause, there being no cause of recusation of the other, the one not recused shall appoint a lawyer having the qualifications of a Judge of the Court of Appeals, or a district Judge of his circuit against whom no cause of recusation exists, who shall act with himself.

2. In cases where both Judges shall be recused for any cause, they shall appoint each a Judge of the district court of their circuit, who shall act together.

**AUTHORITY OF APPOINTEE.**

**Sec. 3.** Be it further enacted, etc., That the lawyer or Judge or Judges appointed under the provisions of this Act shall, in the trial of the cause for which he or they may be appointed, have and exercise the same powers that may be exercised by any Judge of the Court of Appeals, and all orders and decrees rendered by them, or either of them, shall have the same force and effect as orders and decrees rendered by a Judge of the Court of Appeals where no cause of recusation exists.

**REPEALING CLAUSE.**

**Sec. 4.** Be it further enacted, etc., That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

**Note.** Const. 1913, Art. 102. Should two Judges of the Court of Appeal be absent, recused or unable to serve, the remaining judge shall appoint district judges or lawyers with the aforesaid qualifications to sit in the case. See C. P., Arts. 337 to 342.

**PAYMENT OF EXPENSES OF DISTRICT JUDGES WHEN SERVING IN COURTS OF APPEAL.****Act 21 of 1900, p. 28.****TITLE.**

**AN ACT to provide for the payment of the actual and necessary expenses of District Judges when serving as Judges of the Courts of Appeal pursuant to Article 99 of the Constitution of 1898.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That District Judges shall be paid their actual and necessary expenses when serving as Judges of the Courts of Appeal, pursuant to Article 99 of the Constitution of 1898.

Sec. 2. Be it further enacted, etc., That said expenses shall be paid from time to time as incurred, on the Judge's own warrant accompanied by his certificate giving a detailed statement of such expenses.

## DISTRICT COURTS, OUTSIDE ORLEANS.

### Constitutional Provisions.

- Art. 107. Number of Districts Fixed.
- Art. 108. Districts, Salaries of Judges.
- Art. 109. Jurisdiction. Judges—How Elected, Qualifications, Vacancies, How Filled, etc.
- Art. 110. Limiting Legislative Power to Increase Number of Judges in District.
- Art. 111. Appellate Jurisdiction.
- Art. 112. Interchange of Judges.
- Art. 113. Qualification—Service on Bench.
- Art. 114. Judge Not Affected by Legislation Changing Jurisdiction, Salary, Term of Office, etc.
- Art. 115. District Judges May Issue Writs of *Habeas Corpus*, etc.
- Art. 116. General Assembly to Provide for Selection of Jurors.
- Art. 117. Sessions—Grand and Petit Juries.

## SESSIONS, ORLEANS EXCEPTED.

Act 163 of 1898, p. 320.

### TITLE.

AN ACT relative to sessions of the District Courts throughout the State, the Parish of Orleans excepted, and to carry out the provisions of Article 117 of the Constitution; to confer on District Judges certain powers in relation to the conduct of business before said Courts and regulating the practice and proceedings therein.

### SESSIONS WHERE DISTRICT IS COMPOSED OF ONE PARISH.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in districts composed of one parish, the Judge shall hold court during the ten (10) months of the year and the sessions shall be continuous, Sundays and legal holidays excepted, for the trial of civil and criminal cases and the disposition of all other matters that may be brought before the Court. The Judge, by a rule of court, may fix the hours for the opening and adjournment of court, but the sessions shall not be fixed for less than five hours' duration each day.

### WHERE COMPOSED OF MORE THAN ONE PARISH.

Sec. 2. Be it further enacted, etc., That in districts composed of more than one parish, the Judge shall sit alternately in each parish, and the session from one parish to the other shall be continuous; provided, that no session in any parish of a district shall be fixed for less than one week or more than three weeks, as the public business may require. The District Judge shall, by an order of court, fix a date for the holding of the sessions in each parish, which order shall be entered on the minutes of the Court and published at least three times in the official journal, in each parish,

and after being so fixed, no change shall be made in such order within less than one year thereafter.

#### **COURTS ALWAYS OPEN; PROCEEDINGS PUBLIC.**

**Sec. 3.** Be it further enacted, etc., That it is the intent and meaning of Article 117 of the Constitution that District Courts shall always be open and the proceedings held to be in open court, while the Judge is on the bench and that the fixing of sessions in districts composed of more than one parish shall not affect the authority or duty of the Judge to set at any time in any of the parishes of his district when the public interest may require it.

**Note.** The district attorney moved that the trial of a criminal case be fixed for first of August. Held that both in Districts composed of one parish as well as in Districts composed of several, the court hold sessions for ten months, and where August and September are the accepted vacation period in a District, a trial cannot be had on first of August. State vs. Colbert, 129 L. 326. Where the District Judge has set aside two months as vacation, after fixing the dates for the session of court, he could open his court during vacation to try misdemeanor cases. State vs. Hinchey, 129 L. 636. The whole subject is carefully reviewed in Lawrason vs. Swartz, 132 L. 311. Colonial Homes etc Co. vs. Sample, 136 L. 195.

The fixing of sessions in a District composed of more than one parish, does not interfere with the authority of the Judge to sit in any parish at any time when the public business required it. Carr vs Louisiana Central Lumber Co., 137 L. 419.

#### **COURTS MAY ADOPT RULES OF COURT.**

**Sec. 4.** Be it further enacted, etc., That District Judges may adopt rules for the conduct of business in their respective courts, provided that same shall contain nothing contrary to the Constitution and laws of this State.

**Note.** The Judge is not only authorized to hold court at any time in any parish of his district when public interest may require it, but also when as he thinks proper to order the commission to draw additional jurors for service during any session of the court or during a continuous session. State vs. Freddy, 118 L. 468. State vs. Winters, 109 L. 3.

#### **JUDGMENTS IN DISTRICT COURTS TO BE SIGNED WITHIN THREE DAYS FROM RENDITION.**

**Sec. 5.** (As amended by Act 40, 1904, p. 76). Be it further enacted, etc., That all judgments rendered by the District Courts shall be signed within three days from the date of the rendition of such judgment, provided that within such delay an application for a new trial may be filed, and the granting of a new trial shall have the effect of setting aside the judgment signed within said three days, provided that judgment in confession may be signed at any time in open court.

#### **JUDGMENTS, WHEN EXECUTORY; SUSPENSIVE APPEALS.**

**Sec. 6.** Be it further enacted, etc., That all judgment of the District Courts shall become executory ten (10) days, exclusive of Sundays, after being signed by the Judge. Any person aggrieved by the judgment may suspend the execution thereof by obtaining an order of appeal and furnishing bond for a suspensive appeal within the delay above mentioned in such sum as the law requires or may be fixed by the Judge, said appeal to be returnable to the proper appellate Court according to law.

#### **REPEALING CLAUSE.**

**Sec. 7.** Be it further enacted, etc., That all laws or parts of laws conflicting with the provisions of this Act be and they are hereby repealed.

**Note.** Where the transcript shows the presence of the accused at all the material stages of the case, and inferentially that all the pleadings were had in open court, the verdict will not be set aside on the ground that the minutes failed to show affirmatively the opening of the court from day to day. The court is open while the Judge is on the bench. State vs. Grigaby, 117 L. 1046. The expression "open court" as used in the act, means the actual session of the court while the judge is on the bench, as contradistinguished from the continuous session of ten months as provided by Const. Art. 117. State vs. Vicknair, 118 L. 963. The Legislature did not intend to control the judges as to the time when they shall hold court in the respective parishes of their districts, but merely that they shall designate in advance certain periods as "terms of court" so as to fix dates for drawing jurors and doing other acts which under existing laws have to be done a certain number of days before opening of court. Webb vs. DeBaillion, 51 A. 789.

A Judgment should be signed within three calendar days from date of rendition, and the judge may do so any time within that delay, such judgments become executory in ten days—not including Sundays—after being signed, unless execution is stopped by appeal within said delay or application for new trial within three calendar days after rendition. Britt vs. Caldwell etc. Co. 129 L. 243. The court refused to consider the constitutionality because presented for the first time in brief by counsel who had ample opportunity to present the question in the District Court). The act is not in conflict with the fourteenth amendments to the Constitution of the United States. State vs. Jackson, 142 L. 636.

## ELECTION OF JUDGES TO FILL VACANCY, ORLEANS EXCEPTED.

**Act 58 of 1884, p. 81.**

### TITLE.

AN ACT to carry out paragraph five, of Article 109 of the Constitution of the State of Louisiana, relative to the election of District Judges in cases of vacancy.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the Governor, immediately upon ascertaining the death, resignation or removal of any District Judge, to order an election to fill the vacancy, except in the Parish of Orleans. Said election shall be held throughout the judicial district in which the vacancy occurred, and in every respect under the general election laws of this State, and the Governor shall issue his proclamation of said election, fixing therein the day for said election, and shall have said proclamation published in at least one newspaper in every parish of said judicial district.

## TRIAL OF CRIMINAL CASES WITHOUT JURY.

**Act 93 of 1916, p. 211:**

### TITLE.

AN ACT to provide that in all criminal cases tried before the Judge without the intervention of a jury, counsel shall have the right to submit to the Judge propositions of law in the same manner as requested charges to the jury are now submitted; that it shall be the duty of the Judge to pass upon the legality and applicability of said submitted proposition before rendering any judgment upon the guilt or innocence of accused; that counsel shall have the right to reserve bills of exception to the rulings of the Judge upon said submitted propositions; that counsel shall have the right to annex the evidence to said bills of exception so reserved; and to repeal all laws and parts of laws in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all criminal cases tried before the Judge without the intervention of a jury counsel shall have the right to submit to the Judge propositions of law in the same manner as requested charges to the jury are now submitted, and it shall be the duty of the Judge to pass upon the legality and applicability of such submitted propositions before rendering any judgment upon the question of the guilt or innocence of the accused; and counsel shall have the same right to reserve bills of exception to the rulings of the Judge upon the said submitted propositions as now exists with reference to the rulings upon requested charges, and shall have the right to have annexed the evidence to said bills of exception, in the same manner and to the same extent as is now done in the case of bills of exceptions reserved to rulings on requested charges to the jury; provided, that the provisions of this Act shall not affect any case which shall be pending at the time of the passage thereof.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws contrary to or inconsistent with this Act be and the same are hereby repealed.

Note. See State vs. Nejin, 140 L. 793.

**TRIAL OF CASES ON LEGAL HOLIDAYS.****Act 6 of 1904, p. 9.****TITLE.**

**AN ACT** to provide for the trial of cases upon legal holidays, Sundays and Christmas day excepted, and upon legal half-holidays.

**PROVIDING FOR TRIAL OF CASES ON LEGAL HOLIDAYS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever empanelling of a jury or the taking of evidence on the trial of any case, shall have been begun, but not concluded, at the time at which there shall intervene any legal holiday or legal half-holiday, it shall be lawful for the presiding judge, and within his discretion, to order said trial to be proceeded with upon said legal holiday, if not a Sunday or Christmas day, or upon said legal half-holiday, and all proceedings thereafter had in the trial of said case shall have the same force and effect as though had on a day not a legal holiday or legal half-holiday.

**Sec. 2.** Be it further enacted, etc., That all laws and parts of laws contrary to or in conflict with this Act be and the same are hereby repealed.

**Note.** The case was submitted to the jury before midnight on Saturday, the jury returned its verdict at 12:15 a. m. Held that Act 6 of 1904, did not change the rule which permitted the return of the verdict on Sunday. *State vs. Keatine*, 130 L. 434.

**CONTEMPT OF COURT.****Act 189 of 1898, p. 43.****TITLE.**

**AN ACT** to carry into effect Article 177, of the Constitution, and to limit the power of courts to punish contempts of court.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That failure to obey an order or judgment of Court, when such order or judgment is in effect an order or judgment for the payment of money, shall not be construed as a contempt, if it appear that the failure to obey is due to inability to comply with the order or judgment which inability existed when the order or judgment was rendered.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws, conflicting with this act, or contrary to its provisions, be and the same are hereby repealed.

**Note.** Judgment was rendered compelling municipal officers to "levy, collect, budget and do all things necessary" to deliver a certain tax to a School Board. A suspensive appeal was taken and pending the appeal, the taxes were collected and disbursed otherwise than to the Board so that when the judgment was affirmed in the Supreme Court, the municipal corporation and its officers were unable to comply with it. Held their failure under the circumstances could not be construed as a contempt. *State ex rel Forsythe vs. Board* 133 L. 1045. (There was no injunction to stay the collection and disbursement of the tax pending the appeal, said the court, and the antecedent conduct was not considered on the trial of the rule to punish for contempt.)

**TIME WITHIN WHICH JUDGES MUST DECIDE CASES.****Act 94 of 1898, p. 117.****TITLE.**

**AN ACT** to amend and re-enact Act No. 72 of the Acts of the General Assembly of Louisiana, approved July 10, 1884, entitled, "An Act to prescribe the time within which District Judges and Judges of the City Courts, the Parish of Orleans excepted, shall decide cases submitted and taken under advisement by them, and to provide for the rendition of judgments and granting of appeals in such cases out of term time under certain circumstances, and to provide penalties for the violation of this Act; and further, to prescribe the duties of the Clerk of Court in such cases, and to prescribe penalties for his failure to perform his duties.

**DUTY TO DECIDE WITHIN THIRTY DAYS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act No. 72 of the Acts of the General Assembly of 1884, approved July 10, 1884, be amended and re-enacted so as to read as follows: That it shall be the duty of the District Judges and the Judges of the City Courts, to render judgments in all cases taken under advisement by them, within thirty days from the time said cases are submitted for their decision; and that all motions, exceptions or applications for a new trial shall be passed upon by said Judges of the District Courts, and the Judges of the City Courts within seven days from the time such motions, exceptions or applications for a new trial are submitted to them for their decision; provided, that by the written consent of the attorneys representing both sides, filed in the records or spread upon the minutes, the time herein granted may be extended for a further period of ten days, but no longer.

**RENDITION OF JUDGMENT WHEN COURT NOT IN SESSION.**

Sec. 2. Be it further enacted, etc., That when the thirty days herein provided expires at a time when the Judge is not holding court in the parish wherein the case was tried and submitted, or in case there is a vacation of said Court, the Judge shall forward his decree to the Clerk of the said Court, who shall enter said decree upon the minutes of said court, and said decree shall have the same effect as if rendered in open court. In all of said cases which are appealable, the District Judges and Judges of the City Courts, shall at the time of rendering their judgment, grant an order of appeal, and fix the appeal bonds when same are not fixed by law; and either party to any suit shall have the right, upon filing the required bond, to take an appeal, which appeal shall have the same legal effect as if granted in open court. It shall be the duty of the Clerk of the Court, immediately upon the receipt of the decree of the Court as aforesaid, to file same and issue notices of the fact to all the parties to the suit, or to their attorneys of record, unless the said notice has been waived by the parties, or by their attorneys of record; and it shall be the duty of the sheriff to serve said notices. The time granted parties under existing laws to take appeals shall, in cases where decrees are rendered under this section, begin to run from the time of the service upon the parties or their attorneys, unless the notice has been waived as aforesaid, the delay for appeals shall begin to run from the date of the filing of the decrees in chambers.

**DECISIONS BY SUCCESSOR OF TRIAL JUDGE.**

Sec. 3. Be it further enacted, etc., In all cases where cases are heard and taken under advisement of the District Judge or Judges of the City Courts, if the Judge before whom a case is tried should die, resign, or be removed from office, or should his term expire before rendering his judgment in the case, his successor in office shall decide the case from the evidence in the record, if all of the testimony is in writing, but if it should be a case in which the testimony has not been reduced to writing, the succeeding Judge shall decide the case from a statement of the facts, if one be found in the record, or if the parties to the suit agree upon a statement of facts, and if the testimony be not in the record, and there be no statement of facts, the case shall be tried *de novo*.

**PENALTIES FOR VIOLATION—DUTIES OF CLERK.**

Sec. 4. Be it further enacted, etc., All Judges mentioned in the foregoing section who shall violate the provisions or requirements of the same, relative to the time within which they shall render decisions as aforesaid, shall forfeit one quarter's salary for each violation. It shall be the duty of the Clerk of Court to notify the Auditor of Public Accounts of any failure on the part of the Judge to render a decision within the time prescribed herein; and it shall be the duty of the Auditor, upon receiving such notification from the Clerk of the Court, to withhold from such Judge the payment of one quarter's salary, which amount shall be paid by the Auditor into the general school fund of the State of Louisiana.

**ADDITIONAL PENALTIES.**

**Sec. 5.** Be it further enacted, etc., In addition to the penalties above prescribed, any Judge who shall violate the provisions of this Act a second time, shall be guilty of nonfeasance in office, and shall be subject to impeachment and removal from office; and in the event of a second violation of the provisions of said Act by any Judge as aforesaid, it shall be the duty of the Auditor of Public Accounts to notify the Attorney General at once of said violation, and it shall be the duty of the Attorney General to institute proceedings immediately for the removal of such Judge.

**FAILURE OF CLERK TO ACT.**

**Sec. 6.** Be it further enacted, etc., Any Clerk of the Court who shall fail, neglect or refuse to inform the Auditor of Public Accounts of any failure on the part of the Judge of his Court to render decisions within the time prescribed in this Act, shall be deemed guilty of non-feasance in office, and shall be subject to immediate suspension and removal from office; and in such cases, it shall be the duty of the District Attorney of said court to proceed against said Clerk of Court, or the Attorney General, for the purpose of removing such Clerk from office.

**CASES UNDED ADVISEMENT WHEN ACT ADOPTED.**

**Sec. 7.** Be it further enacted, etc., All cases held under advisement by the Judges of the District Court throughout the State, and by the Judges of the City Courts at the time when this Act shall go into effect, shall be decided within ten days after the promulgation of this Act; provided, said Judges shall not be forced to render advisement for a shorter period than thirty days.

**ACT NOT APPLICABLE TO ORLEANS.**

**Sec. 8.** Be it further enacted, etc., That the provisions of this Act shall not apply to the Judges of the Parish of Orleans.

**REPEALING CLAUSE.**

**Sec. 9.** Be it further enacted, etc., That all laws or parts of laws contrary to or inconsistent herewith are hereby repealed.

Note. The court refused to consider the issue of constitutionality of the act because it was made too late, and "plaintiffs (who raised it) were before the court solely by virtue of an appeal granted under the authority of that act Murphy vs. Police Jury, 118 L. 401. This act does not apply to the courts of the parish of Orleans. McGaw vs. O'Briene, 124 L. 989 and see Frederick vs. Marx Picture Frame Co., 129 L. 149.

**CONCURSUS PROCEEDINGS.**

**Act 52 of 1912, p. 61.**

**TITLE.**

AN ACT relative to Concursus Proceedings in this State in cities of fifty thousand population or over providing for the reference of same to Special Commissioners for reports and findings on the law and the facts applicable thereto; defining the power of said Commissioners and the regulations of the proceedings before them.

**REFERENCE TO SPECIAL COMMISSIONER.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana. That immediately upon issue being joined in all concursus proceedings in cities of 50,000 population or over same may be referred by the Court to a Special Commissioner to examine and report thereon as to the law and the facts applicable thereto.

**QUALIFICATION OF COMMISSIONER.**

**Sec. 2.** Be it further enacted, etc., That the Special Commissioner appointed under the authority of this Act shall be learned in the law and shall have practiced law or shall have held judicial position in this State

for five years, and shall have been an actual resident of the district for at least three years next preceding their appointment.

**POWERS OF COMMISSIONER.**

Sec. 3. Be it further enacted, etc., That the Special Commissioner appointed under the authority of this Act, shall have power to examine the parties in the cause, to examine an oath viva voce al witnesses produced by the parties before them and to order the examination of every witness to be taken under commission to be issued upon their certificates from the Clerk's offices, or by deposition according to the laws of this State, to require the production of all books, papers, writing, vouchers and documents necessary and requisite in the case; to direct the manner and method in which matters requiring evidence shall be proved before them; to ascertain the amounts due all parties to the cause and to establish and fix all liens, their preference and priority, and to fix and establish the manner and method of the distribution of the fund involved in said cause and generally to do all other acts make or cause other inquiries in the matters before them, which they may deem necessary and proper to enable them to fix and determine the rights of all interested parties.

**PLACE AND TIME FOR HEARING.**

Sec. 4. Be it further enacted, etc., That upon every reference, it shall be the duty of the Special Commissioners to appoint a time and place for the hearing of the proceedings in the same, and to give due notice thereof to each of the parties or their attorneys and any one interested, the Special Commissioner shall have the right to proceed, co-operate, or in their discretion, to adjourn the examination and proceedings to a future date, giving notice to the absent party or his attorney of such adjournment; and it shall be the duty of the Special Commissioner to proceed with all reasonable diligence on every reference and with the least practicable delay, and any interested party shall have the right to apply to the court or a judge thereof for an order directing the Special Commissioner to hasten the proceedings and to make his report and to certify to the court or judge the reasons for delay.

**REPORT.**

Sec. 5. Be it further enacted, etc., That in the reports made by the Special Commissioner to the Court, no part of any state of facts, charge, affidavit, deposition or answer brought in or used before him shall be stated or recited but such state of facts, charge, affidavit, deposition or answer shall be identified, specified and referred to so as to inform the Court of what was brought before the Special Commissioners.

**WITNESSES.**

Sec. 6. Be it further enacted, etc., That witnesses who live within the district may, upon due notice to the opposite parties be summoned to appear before the Special Commissioner by subpoena in the usual form issued by the Clerk of Court requiring the attendance of the witnesses at the time and place specified; and if any witness shall refuse to appear or to give evidence, he shall be deemed in contempt of Court which, being certified to the Clerk's office by the commissioner, an attachment may issue thereupon by order of Court, in the same as if the contempt were for not attending, or for refusing to give any testimony in Court. But nothing herein contained shall prevent the examination of witnesses viva voce when produced in open Court, if the Court in its discretion deems it advisable.

**AFFIDAVITS, ETC., PREVIOUSLY MADE.**

Sec. 7. Be it further enacted, etc., That all affidavits, depositions and documents which have been previously made, heard or used in Court upon any proceedings in any case or matter, may be used before the Commissioner.

**COMPENSATION.**

Sec. 9. Be it further enacted, etc., That the compensation to be al-

lowed the Special Commissioner under this Act for his services, shall be fixed by the Court in its discretion, having regard to all the circumstances thereof, and the compensation shall be charged upon and borne by the party cast or the mass in the discretion of the court.

#### **RETURN OF REPORT TO CLERK.**

Sec. 10. Be it further enacted, etc., That the Special Commissioner, as soon as report is completed, shall return the same into the Clerk's office, and the day of the return shall be entered by the Clerk in the appropriate docket book. The parties shall have ten days from the time of the filing of the report to file exceptions thereto; and if no exceptions are filed within that period by any interested party, the report shall stand confirmed on the next rule day after the ten days have elapsed. If exceptions are filed, they shall be fixed for hearing on the second rule day after the ten days have elapsed, if the Court is then in session; if not, it shall be fixed for hearing on the second rule day of the next sitting of the Court.

#### **EXCEPTIONS TO REPORT.**

Sec. 11. Be it further enacted, etc., That in order to prevent exceptions to reports from being filed, from fraudulent causes or from mere delay, the parties whose exceptions are overruled shall for every exception overruled pay costs for the mass and for every exception allowed shall be entitled to costs from the mass.

#### **REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

Note. The report was filed Mar. 3rd, the exceptions on the 14th (there is an intimation that they were too late). The exceptions must be direct and specific. They will not be considered where they are vague, general and indefinite. The lower court may fix the compensation of the commissioner and the costs are to be paid by the party whose exceptions are overruled. Rohm vs. Jallons, 134 L. 913.

### **POLICE JURIES, ETC., TO PROVIDE BUILDINGS AND FURNITURE.**

**Act 111 of 1880, p. 139.**

#### **TITLE.**

**AN ACT** requiring police juries throughout the State and the municipal authorities of the City of New Orleans to provide necessary buildings and requisite furniture for the holding of sessions of courts (Justices of the peace excepted); to provide the necessary buildings, offices and furniture for the respective officers of said court; to provide the necessary offices, furniture, fuel and gas required by the Recorder of Mortgages, Register of Conveyances, Criminal and Civil Sheriffs, Clerks of Courts and Constables in the City of New Orleans.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That each parish of the State shall provide a suitable building and the requisite furniture for the sitting of the District and Circuit Courts, and such offices and furniture as may be needed by the Clerks and Sheriff of said courts, the expenses thereof to be paid by the parish.

**Sec. 2.** Be it further enacted, etc., That the City of New Orleans shall provide suitable courtroom for the various courts of the City of New Orleans and Parish Orleans, and such furniture, fuel and gas as may be therein needed; to provide suitable offices, furniture, fuel and gas for the Criminal and Civil Sheriffs, Clerks and Constables of said courts; to provide suitable buildings, furniture, fuel and gas for the Recorder of Mortgages and Register of Conveyances, payment for the same to be made by the City of New Orleans.

**Note.** Courthouse in New Orleans. Acts 79, 1902, p. 106; 96, 1904, pp. 214, 300, 244, 1910, p. 408; 294, 1908, p. 434.

**COURT MAY NOT BE HELD IN PLACES WHERE LIQUOR IS SOLD.**

**Act 9 of 1892, p. 8.**

**TITLE.**

**AN ACT** prohibiting the holding of the courts of justice of the peace in buildings in which public barrooms are kept or spirituous liquors are offered for sale, and providing penalties for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for justices of the peace throughout the State, to hold sessions of their court in any building used wholly or in part as a barroom or place where spirituous liquors are offered for sale.

**Sec. 2.** Be it further enacted, etc., That any violation of this act shall constitute a misdemeanor, and upon conviction punished by fine or imprisonment, at the discretion of the court.

[R. S., Sec. 1927.] Judicial districts. Superseded by Const. Art. 107.

[R. S., Sec. 1928.] Terms of court, parish of Orleans. Superseded by Act 4, 1896, printed under sub-title "District for Parish and City of New Orleans," *infra* (Const. Art. 117).

[R. S., Sec. 1929.] Terms of court, judicial districts, outside Orleans. Const. Art. 117 and Act 60, 1898, printed *infra*.

[R. S., Sec. 1930.] Salaries of judges. Superseded by Const. Art. 108, outside Orleans. Const. Art. 132 for Orleans.

**[Judges' Authority to Hold Adjourned or Special Term.]**

[R. S., Sec. 1931.] Judges of the several District Courts are authorized to hold adjourned or special terms of their respective courts whenever they may find it necessary, at which terms all business, civil or criminal, may be transacted, as if it were a regular term; and, if necessary, they shall order the Sheriff to summon a jury to attend the court.

[R. S., Sec. 1932.] How special terms are ordered, etc. Not in force. *State vs. Freddy*, 118 La. 468.

**[Criminal and Civil Dockets.]**

[R. S., Sec. 1933.] Each court shall keep two civil dockets, one of cases relating to probate business, and the other of all civil cases.

**[Adjournment When Judge Absent.]**

[R. S., Sec. 1934.] In case the Judge should not appear on the first day of any term, the Sheriff, or in the event of his sickness, death, resignation, absence, inability, or failure to act, the coroner shall adjourn the court from day to day for not more than three days. The Judge may also, by written order directed to the Sheriff, adjourn the court to such day preceding the next regular session as he may think proper.

*Note.* The Judge wrote the sheriff that he was sick, confined to bed and asked the sheriff to adjourn court until a certain day. The clerk spread the order on the

minutes and adjourned court until the day fixed by the judge. Held, court was properly adjourned. *State vs. Reed*, 49 A. 704.

**[Judges May Make Rules of Court.]**

[R. S., Sec. 1935.] Each judge may make rules for the regulation of the practice of his court, and the mode of setting causes for trial; which rules shall be hung up in the court room.

**[Orders Which Judges May Make in Chambers.]**

[R. S., Sec. 1936.] The District Judges shall have authority to administer oaths; to grant, at chambers, all orders relating to the settlement of successions; the appointment and administration of tutors of minors and curators, of interdicted persons; all orders relating to surrenders by insolvent debtors, and the appointment and administration of syndics; orders for inventories, and for appointment of experts, in suits for partitions, orders of arrest, attachment, sequestration, provisional seizure and injunction, and all orders relating thereto; writs of habeas corpus, orders of seizure and sale on executory process, orders for commissions to take testimony; and generally all orders not required by law to be granted in open court.

*Note.* The contest for the appointment of definitive syndic was heard on 26 June and taken under advisement. The judgment appointing the syndic was rendered July 5th and signed July 28th. Held regular—though the regular session of the court for the Parish of Orleans, was at an end on the 30th of June. *Conery vs. His Creditors*, 118 L. 863.

### **PROBATE ORDERS IN CHAMBERS.**

**Act 15 of 1882, p. 11.**

**TITLE.**

AN ACT to empower District Judges to grant, at chambers, certain orders in probate matters.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the District Judges shall have authority to grant, at chambers, orders for affixing seals, taking inventories and making partitions; to order the execution of wills; to confirm testamentary executors; to confirm and appoint tutors and undertutors; to appoint dative testamentary executors, administrators, curators of vacant successions, and attorneys for absent heirs; to order family meetings and homologate their proceedings, if no opposition be made thereto; to grant orders for the same of succession property, and generally all orders relating to the settlement of successions and the administration of tutors.

### **ORDERS BY JUDGE OF ADJOINING DISTRICT.**

**Act 127 of 1910, p. 198.**

**TITLE.**

AN ACT to amend and re-enact Act 171 of 1894, approved July 12, 1894, entitled, "An act to authorize in the absence of the District Judge from his judicial district, the District Judge of the adjoining judicial district, to grant all such orders as the said absent District Judge could grant if present.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act 171 of the year 1894 be amended and re-enacted so as to read as follows, to-wit:

That whenever a District Judge of any of the judicial districts of this State is absent from his judicial district, recused or unable to act, on due proof thereof, it shall be lawful for the District Judge of the adjoining judi-

cial district to grant all such orders as the said absent, recused or incapacitated District Judge could grant if present, not recused and able to act.

Sec. 2. Be it further enacted, etc., That this act shall not apply to the Parish of Orleans.

Sec. 3. Be it further enacted, etc., That all laws in conflict herewith are hereby repealed, and that this act shall take effect from and after its passage.

[R. S., Sec. 1937.] Judges of District Courts authorized to celebrate marriages. See R. S., Sec. 2207, title "Marriages."

**[Suits Which Are Entitled to Trial by Preference.]**

[R. S., Sec. 1938.] Suits in which the right of office is involved, or in which the State, a police jury, or municipal corporation is a party, shall have precedence over all others, except criminal cases, and they shall take precedence in the order in which they are named.

[R. S., Sec. 1939.] When Sheriffs and Coroners are interested in any suit or there are vacancies in the offices, Constable may make service of process. See R. S., Sec. 641.

[R. S., Sec. 1940.] Contempt of court by Attorney-at-Law. See R. S., Sec. 124.

[R. S., Sec. 1941.] Conduct which will be construed as contempt by Attorney-at-Law. See R. S., Sec. 125.

[R. S., Sec. 1942.] All conflicts between creditors claiming privilege on property must be transferred to court under whose mandate it was first seized. Now embodied in C. P., Art. 126.

[R. S., Sec. 1943.] Emancipation of minors over eighteen. Now R. C. C., Art. 385.

[R. S., Sec. 1944.] Emancipation decrees which may be rendered. R. C. C., Art. 386.

[R. S., Sec. 1945.] When parental authority necessary. See R. C. C., Art. 387.

**[Cost of Application How Paid.]**

[R. S., Sec. 1946.] Whenever any minor seeking to avail himself of the provisions of this act shall fail in obtaining a decree of emancipation, all expenses which he may have incurred shall be paid by his tutor.

*Note. R. C. C., Art. 388. Costs paid by minor's estate, whether application for emancipation is successful or not.*

[R. S., Sec. 1947.] Recusation of judges in criminal cases. This section is identical with R. S., Sec. 1067, which was amended by Act 35, 1877, p. 35, Act 40, 1880, printed under title "Recusation" (R. S., Sec. 3191), was held to have repealed Act 35, 1877, *State ex rel. Jones vs. Judges*, 41 A. 319.

[R. S., Sec. 1948.] Right of district and parish judges to

grant orders in absence of parish judge of adjoining district, etc. Now part of C. P., Art. 126.

[R. S., Sec. 1949.] Sheriff, coroner or constable must make arrests forthwith after reception of warrant. See R. S., Sec. 1083, title "Criminal Proceedings."

[R. S., Sec. 1950.] Sheriff or other officer may call for assistance in making arrests. See R. S., Sec. 1084, title "Criminal Proceedings."

[R. S., Sec. 1951.] Writ must be returned in ten days, etc. See R. S., Sec. 1085, title "Criminal Proceedings."

[R. S., Sec. 1952.] Neglect of sheriff or other officer to make arrest or return, etc. See R. S., Sec. 1086, title "Criminal Proceedings."

**[Control of Judges Over Officers Appointed to Execute Writs.]**

[R. S., Sec. 1953.] It is the spirit and intention of this act that the several judges in this State shall have a general supervisory control over the officers appointed by law to execute the writs issuing from, and the order of their courts. It shall therefore be the duty of the several judges of the courts of this State, and they are hereby authorized, whenever the sheriff or deputy or deputies, or the coroner or constable authorized to execute or serve any order or writ emanating from, or in the name of any court in term time, or out of term time, shall neglect, fail or refuse to do his duty in the premises, if such neglect, failure or refusal shall occur in the presence of the judge or court, to declare the officer in contempt of court, and the judge may, in his discretion, fine such officer in a sum not exceeding five hundred dollars for each offense, and imprison him in the common jail not exceeding thirty days, and suspend him from the execution of his office, and supply his place as is provided for in Section 1952 of this act; he may inflict any one or all of the above penalties. If the neglect, failure or refusal of such officer to perform his duties does not take place in the presence of the judge, but is brought to the notice of the judge, either in vacation or term time, by the written accusation of the district attorney *pro tempore*, or by other person; if by any other person, sworn to by such person, the delinquent shall be notified by the service of such written notice on him at least two days, to appear before the judge at the time and place fixed by the judge in an order to be issued by him to try such alleged delinquency; and, if upon such trial, which shall be summary and without a jury, the party is found guilty of such delinquency of duty, he shall be considered in contempt of court, and be fined, imprisoned and suspended from office, or either or all, in the discretion of the judge, as is provided in this section, when the contempt occurs in his presence; if it be a deputy of any of such officers, then the deputy

shall be subject to the fine and imprisonment, or either, above fixed, and shall be absolutely prohibited from acting in the capacity of deputy thereafter. In the trial or execution of the sentence of the sheriff or any of his deputies for contempt, as herein provided for, the coroner, or any constable of the parish named by the judge shall act; and if there be neither coroner nor constable at hand, the judge shall appoint some suitable person to act in executing his order, who may be dismissed or suspended, at the discretion of the judge; and if it be the coroner who is in contempt, the sheriff or any of his deputies or constable may act, and if it be the constable who is in contempt, the sheriff or any of his deputies may act; and in all cases, if there be no officer at hand to act, the court shall appoint some proper person to do so.

[R. S., Sec. 1954.] Failure to serve process, conservatory orders, writs, etc., render the sheriff and his deputies, coroner, constable and the sureties of those officers liable for injury sustained by those at whose instance process was issued, etc. R. S., Sec. 3594, title "Sheriff."

[R. S., Sec. 1955.] Liability of clerk for neglect, failure or refusal to issue any copy, paper, citation, writ or other process. See R. S., Sec. 486, title "Clerk."

[R. S., Sec. 1956.] Liability of clerk for failure to comply with legal formality in issuing citation, etc., and other process. See R. S., Sec. 487, title "Clerk."

[R. S., Sec. 1956.] Officer of parish or municipality exercising judicial functions not permitted to remit any portion of fine or imprisonment imposed. See R. S., Sec. 1070, title "Criminal Proceedings."

[R. S., Sec. 1957.] By whom and how penalties imposed may be remitted. See R. S., Sec. 1071, title "Criminal Proceedings."

[R. S., Sec. 1958.] Judges may try mandamus proceedings in chambers during vacation. See C. P., Art. 830, part 2.

[R. S., Sec. 1959.] Suspensive appeals from Second Judicial District Court, Parish of Jefferson. Court abolished, but provision retained in C. P., Art. 575.

[R. S., Sec. 1960.] Judges, clerks and other officers forbidden to practice as attorneys-at-law. See R. S., Sec. 117, title "Attorneys-at-Law."

[R. S., Sec. 1961.] Repeal of paragraph four, C. P., Art. 338. That judge is material witness is not cause for recusation. See R. S., Sec. 3192, title "Recusation."

[R. S., Sec. 1962.] Manner of taking the testimony of the presiding judge. See R. S., Sec. 3945, title "Witness."

[R. S., Sec. 1963.] When charging jury in criminal cases judge must limit himself to giving jury a knowledge of the law applicable to case. R. S., Sec. 991, title "Criminal Proceedings."

[R. S., Sec. 1964.] Change of venue in criminal cases on application of State, or *ex proprio motu* made by court. See R. S., Sec. 1021, title "Criminal Proceedings."

[R. S., Sec. 1965.] Confinement of persons in insane asylums; duties, fees and expenses of sheriff. See R. S., Sec. 1768, title "Interdiction."

#### [When Judge Must Charge Jury in Writing.]

[R. S., Sec. 1966.] In all cases appealable to Supreme Court it shall be the duty of the judge to deliver his charge to the jury in writing, if the counsel of either party requires the same.

Note. R. S. Sec. 2142, Special charge to Grand Jury. R. S. Sec. 1213, Special charge to Grand Jury relative to liquor.

The Judge need not submit his written charge to counsel for scrutiny. When the objection is urged to the written charge of the judge, it will be regarded as complete and satisfactory statement of the law applicable to the case. The judge gave the written charges submitted by defendant with verbal comment, afterward reduced to writing. Held, the defendant has no just cause for complaint. *State vs. Saunders*, 44 A. 978.

If the judge in charging the jury, commits an error, it "cannot be remedied by an application for a different charge at a subsequent stage of the proceeding." *State vs. Tisdale*, 41 A. 338.

It is sufficient compliance with the statute for the the judge in a case appealable to the Supreme Court to read a portion of the charge from the volume containing the published decisions of the Supreme Court. *State vs. Roy*, 118 La. 485.

[R. S., Sec. 1967.] Membership in civil or religious corporations not cause for challenge of judge or justice of the peace. See R. S., Sec. 3190, title "Recusation."

#### [Fees of Interpreter.]

[R. S., Sec. 1968.] When an interpreter may be deemed necessary by the judge, he shall receive the sum for each suit in which he may be called on to act, to be taxed with the cost.

Note. C. P., Arts. 784, 785. Duties, appointment and translator.

[R. S., Sec. 1969.] Transfer of causes to courts created by Constitution 1868. Obsolete.

[R. S., Sec. 1970.] All papers, etc., must be transferred and cases proceeded with as if originally filed in court to which case is transferred. Obsolete.

[R. S., Sec. 1971.] R. S., Secs. 1969, 1970, not applicable to parish of Orleans. Obsolete.

[R. S., Sec. 1972.] Physicians, etc., lawyers, etc., not permitted to practice without paying license; may be enjoined; cannot collect fees; duties of judges, etc. See R. S., Sec. 3235, title "Revenue."

[R. S., Sec. 1973.] While General Assembly is in session, Attorneys-at-Law who are members of it may have cases continued in all courts, except Supreme Court. See R. S., Sec. 126, title "Attorneys-at-Law."

[R. S., Sec. 1974.] Right and time of appeal to District Court from decision of Land Register. See R. S., Sec. 2976, title "Public Lands."

[R. S., Sec. 1975.] Duty of Register and appellant when appeal is taken. See R. S., Sec. 2977, title "Public Lands."

[R. S., Sec. 1976.] Duty of clerks of courts when appeal from decision of Land Register is filed. See R. S., Sec. 2978, title "Public Lands."

[R. S., Sec. 1977.] Trial of cases of appeals from Land Register may be by jury, and appeal lies to Supreme Court. See R. S., Sec. 2979, title "Public Lands."

[R. S., Sec. 1978.] When judgment final, clerk issues certified copy of judgment, filing of same in Register's office, etc. See R. S., Sec. 2980, title "Public Lands."

[R. S., Sec. 1979.] Application to court, when surety on bond of officer is not approved. See R. S., Sec. 352, title "Bonds."

[R. S., Sec. 1980.] Proceedings against defaulting officer. See R. S., Sec. 1127, title "Defaulter."

[R. S., Sec. 1981.] Office declared vacant on conviction. See R. S., Sec. 1982, title "Defaulter."

[R. S., Sec. 1982.] Accused officer cannot act pending appeal. See R. S., Sec. 1129, title "Defaulter."

[R. S., Sec. 1983.] Judge shall charge Grand Jury relative to regulating sale of intoxicating liquor. See R. S., Sec. 1213, title "Drinking Houses."

## JUVENILE COURTS.

These courts were established by Act 83, 1908, p. 96. Previous acts relating to the same subject are Act 136, 1902, p. 237; Act 82, 1906, p. 134. By Act 48, 1910, p. 72, the operation of the Act of 1908 was "suspended" as to all parishes outside Orleans, except those containing an incorporated town of more than seven thousand inhabitants. The act further provided that the police jury of any parish could have the act extended to that parish by application to the Governor, etc. Some litigation arose out of the matter, the principal cases, being: *State vs. Reed*, 123 La. 411; *State vs. Shepherd*, *id.* 581; *State vs. Prater*, 125 La. 673; *State vs. Andersen*, 127 La. 1041; *State vs. Cocicero*, *id.* 1035; *State vs. Bortine*, *ed.* 253; *State vs. Fink*, *id.* 190; *State vs. Ward*, *id.* 535 (see also 126 La. 353). The whole subject is now controlled by Const. Art. 118, Secs. 1 to 4.

## **DISTRICT COURTS FOR THE PARISH AND CITY OF NEW ORLEANS; CONSTITUTIONAL PROVISIONS.**

Art. 130—Qualification of judges.

Art. 132—Civil District Court and Criminal District Court for parish, number of judges, election, term of office, salary.

Art. 133—Jurisdiction of Civil District Court.

Art. 134—Allotment of cases.

Art. 135—Judgments which may be rendered in term time and vacation, and by any of the judges, etc.

Art. 136—May adopt rules, session *en banc*; presiding judge, etc.

Art. 137—Clerk of Civil District Court; minute clerk.

Art. 138—Court selects bank to act as judicial depositary.

Art. 139—Jurisdiction of Criminal District Court; clerk of said court; minute clerk, etc.

Art. 142—Civil and criminal sheriff; election; term of office; bond; deputies; fees, etc.

Art. 152—When judges, etc., shall be elected.

Art. 153—Clerk of Civil District Court to keep record of fees collected, etc.

Arts. 154, 155—Judicial expense fund.

Art. 157—Vacancies; how filled.

## **INTERCHANGE OF JUDICIAL OFFICERS—JUDGES AD HOC.**

**Act 117 of 1918, p. 189.**

### **TITLE.**

AN ACT to carry into effect the proposed amendment to Article 130 of the Constitution of the State of Louisiana if adopted; providing for the interchange of judicial officers in the Parish of Orleans, and the appointment and compensation of Judges Ad Hoc.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that in the event the proposed amendment to Article 130 of the Constitution of the State of Louisiana be adopted; That the Judges of the Civil District Court for the Parish of Orleans shall when notice be brought to their attention by any party at interest, that a judicial officer of the Parish of Orleans, judges of the Court of Appeal excepted, is unable to hold Court by reason of the disability of the judge, or for any cause whatsoever, or that Court is not held by reason of temporary vacancy in the office, as the public interest requires, said judges shall sit *en banc* and proceed to call upon any judicial officer for the Parish of Orleans, judges of the Court of Appeal excepted, or name a judge ad hoc, to act for and in the stead of the absent judge, to hold said Court and discharge all the duties of the judge so disabled, or to fill the vacancy and discharge the duties of the office, during said disability or until the vacancy be filled.

Sec. 2. Judges Ad Hoc shall receive as compensation, during the period of the rendition of their services, the same pay provided for the judges for whom they act, which said amount in the event said services be rendered in the Civil District Court, or City Courts of the Parish of Orleans shall be payable on their own warrant monthly, or at the termination of their services out of the Judicial Expense Fund, and when rendered in the

City Criminal Courts or the Criminal District Court adequate provisions for compensation shall be made by the City of New Orleans.

Be it further enacted that in the event the proposed amendment to Article 130 of the Constitution of the State of Louisiana be adopted this act shall be in full force and effect from and after the date of the adoption of the amendment, and that all laws or parts of laws in conflict herewith be and the same are repealed.

Note. The amendment to Const. Art. 130 referred to in the act, was proposed by Act 110, 1918, and adopted at the election held 5th November, 1918.

## TERMS OF CIVIL DISTRICT COURT.

### Act 4 of 1896, p. 5.

#### TITLE.

**AN ACT to fix and regulate the terms of the Civil District Court for the Parish of Orleans, and to repeal Act 111 of 1892, approved July 7th, 1892.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the Civil District Court for the Parish of Orleans shall be opened at eleven o'clock A. M., and shall remain open until three P. M., unless business assigned for the day be earlier concluded, from the 15th day of October to the end of the month of June, in each year, except from Christmas to the second day of January. For granting interlocutory orders; issuing any and all writs; trials of rules to quash same, and not upon merits; and for the purpose of trying proceedings instituted, or on appeal therein by a landlord for the possession of leased property, partition proceedings, and for such special probate and insolvency business, as the court en banc may by rule determine, said court shall remain open on all legal days during the whole year, and any judge thereof present in the Parish, is authorized to act in the premises in cases allotted to a judge absent from the Parish, or unable to hold court or so act, with all the powers of said absent judge.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its passage, and Act No. 111 of 1892, approved July 7th, 1892, be and the same is hereby repealed.

**Note.—**Expropriation cases cannot be tried in the Parish of Orleans, during vacation. *State ex rel Morgans L. & T. R. R. & S. S. Co.*, 109 L. 8. This is true however only of foreign corporations. Domestic corporations having the right of expropriation may obtain a trial of expropriation cases during vacation, and where the case is taken up by consent, the consent extends to the right of appeal by motion during vacation. *City vs. Jockey Club*, 124 L. 64 (the appeal was however dismissed for other reasons). A judgment ordering a tutor to file an account within ten days, is an interlocutory judgment and may be signed during vacation. *Suc. of Wegman*, 110 L. 930. The court may appoint syndic to an insolvent during vacation—the issue was argued and submitted, during the term. *Conery vs. His Creditors*, 118 L. 864.

An appeal cannot be taken during vacation by motion, even though the judgment was rendered during the vacation. *Page vs. Pinckard*, 140 L. 254. An appeal by motion cannot be taken at a term subsequent to the one in which the judgment was rendered. In Orleans the term of court ends 30th June and opens 15th October. *Smith vs. O'Reilly Elevator Co.*, 134 L. 635.

"Judgment was rendered September 8th and signed September 14, 1909 \* \* \* The motion of appeal was filed on 13th September. Held the Court was in open session and had jurisdiction (Act No. 4 1896), for issuing any and all writs during the summer or vacation months \* \* \* The motion to dismiss was overruled. *State ex rel Bush vs. Trahan*, 125 L. 312.

[R. S., Seca. 1984 to 1990.] Are based on Secs. 1 to 6 of Act 47, 1868, p. 55, which act was repealed by Act 59, 1872, p. 107.

[Order in Which Cases Shall Be Tried in Civil District Court.]

[R. S., Sec. 1991.] (As amended by Act 243, 1910, p. 407.) Cases shall be tried in their order; there shall be no preference cases, except State and City cases, promissory note cases, and injunction cases, which shall be placed, as soon as they are at issue on one trial or call docket, to be called "the Summary Docket,"

and shall be fixed for trial in their order; all jury cases, as soon as they are at issue, and the jury fee has been deposited, shall be placed upon another call docket, to be called "the Jury Docket," and they shall be fixed for trial in their order. All other cases shall be placed as soon as they are at issue, on another call docket, to be called "the Ordinary Docket," and shall be fixed for trial in their order; all pursuant to rules to be adopted by the judges of the Civil District Court for the Parish of Orleans.

[R. S., Secs. 1992 to 1999.] Transfer of records, dockets, etc., from the courts established by the Constitution of 1864 to those established by the Constitution of 1868. Art. 261, Const. 1879; Art. 325, Const. 1898, and Art. 326, Const. 1913, provide for the transfer of causes pending in courts established under previous constitutions.

## **TRANSFER OF ALL RECORDS TO CIVIL DISTRICT COURT.**

**Act 39 of 1898, p. 44.**

### **TITLE.**

**AN ACT relative to records of causes in the files of the Civil District Court Building, Parish of Orleans.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any and all records of any and all civil actions, causes or proceedings of Courts of Record for the Parish of Orleans, within the jurisdiction of the Civil District Court, not heretofore transferred to the Civil District Court for the Parish of Orleans, may be so manually transferred by any party in interest to the said Civil District Court for the Parish of Orleans, as now constituted without cost, and herein proceeded with as if originally filed therein.

[R. S., Secs. 2000, 2001.] Deposit for costs in appeals from courts of Justice of Peace. Repealed by Act 136, 1880, printed under title "Costs."

[R. S., Secs. 2002 to 2004.] Interpreter for First District Court of New Orleans. Court ceased to exist on establishment of judiciary system by Const. 1879.

[R. S. Secs. 2005 to 2015.] Jurisdiction of Third District of New Orleans, etc. Court ceased to exist on establishment of judiciary system by Const. 1879.

## **JUDICIAL DEPOSITORY—PARISH OF ORLEANS.**

**Act 33 of 1880, p. 34.**

### **TITLE.**

**AN ACT to carry into effect Article 133 of the Constitution, and to impose a penalty on the officers failing to comply with the same.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the sheriffs, clerks or other officers of the Civil District Court of the parish of Orleans be and they are hereby required to deposit with the judicial depository, selected by said court, all moneys, notes, bonds, or securities, except such notes or documents as may be filed with suits or in evidence, which shall be kept by the clerk of the court, coming into their hands, under Article 133 of the Constitution, and make written return thereof, within forty-eight hours after the same has been received by such officer or officers.

**Sec. 2.** Be it further enacted, etc., That any sheriff, clerk or officer, failing to make such deposit and written return thereof as herein provided, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be imprisoned not exceeding six months and fined not exceeding five hundred dollars.

Note. See Fiscal Agencies, Act 205, 1912, Sec. 9, printed at p. 751.

## EXPENSES OF CIVIL DISTRICT COURT, ETC.

**Act 225 of 1910, p. 371.**

### TITLE.

**AN ACT** to provide for the expenses of the offices of the clerks of the Civil District Court, Register of Conveyances and Recorder of Mortgages for the Parish of Orleans, and of the Clerks of the City Courts of the City of New Orleans, after all the bonds and certificates provided for in Article 156 of the Constitution shall have been retired.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That after all the bonds and comptrollers certificates issued under the provisions of Article 156 of the Constitution shall have been retired, paid and cancelled, that the salaries and expenses of all the clerks and employees, of the Clerk of the Civil District Court, Register of Conveyances and Recorder of Mortgages for the Parish of Orleans, and of the Clerks of the City Courts of the City of New Orleans, shall be fixed and regulated by the Judges of the Civil District Court of the Parish of Orleans sitting en banc, and the said judges shall have the power and authority to increase the number of clerks now employed in the said offices if they deem in their judgment that said increase is necessary, and they are further authorized to rearrange and readjust the salaries of all the clerks and employees of the said offices.

**Sec. 2.** Be it further enacted, etc., That this act shall go into effect when all the bonds and the Comptroller's certificates authorized to be issued by Article 156 of the Constitution have been paid, retired and cancelled.

**[R. S., Secs. 2000, 2001.]** Deposit of costs in appeals from courts of Justice of Peace. Now controlled by Act 136, 1880, and other acts printed under title "Costs and Fees."

**[R. S., Secs. 2002 to 2015.]** Employment of interpreter by Judge of First District Court, jurisdiction of Third District Court, etc. Not part of judiciary system existing under Constitution 1879, 1898 or 1913.

**[R. S., Sec. 2016.]** Compulsory attendance of witnesses in Parish of Orleans. R. S., Sec. 3960.

**[R. S., Secs. 2017 to 2043.]** Establishment of parish courts; duties of their officers, etc. Parish courts are not part of the judiciary system established by Consts. 1879, 1898, 1913.

## STENOGRAPHERS FOR CIVIL DISTRICT COURT.

**Act 104 of 1916, p. 226.**

### TITLE.

**AN ACT** to provide for the appointment, duties and compensation of Deputy Clerks and Stenographers in the Civil District Court for the Parish of Orleans, and for taxation of their transcription fees as costs; and to repeal all laws or parts of laws in conflict herewith or on the same subject.

Notice of intention to apply for the passage of this act having been published in the Parish of Orleans thirty days prior to the introduction thereof in the General Assembly in the manner provided by law for the advertisements of judicial sales, and evidence of such notice having been exhibited in the General Assembly before the passage thereof.

**APPOINTMENT OF STENOGRAPHERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the clerk of the Civil District Court for the Parish of Orleans shall appoint, with approval of a majority of the judges thereof, as many additional deputy clerks as there shall be divisions of said court, who shall be qualified stenographers, one of whom shall serve as stenographer in each of the divisions of the said court.

**DUTIES OF STENOGRAPHER.**

Sec. 2. Be it further enacted, etc., That it shall be the duty of each of said stenographers to attend the sessions of the court to which he shall be assigned, and, subject to the orders of the court, to take down stenographically the testimony offered therein, and such other matter as may be directed by the court, and for such services they shall receive a salary of two hundred dollars per month, payable out of the Judicial Expense Fund for the Parish of Orleans, in the same manner as other employees of said clerk's office are paid.

**TRANSCRIPTION OF TESTIMONY.**

Sec. 3. Be it further enacted, etc., That said stenographers shall at the request of the parties to any proceeding or any of them, or at the discretion of the presiding judge, transcribe prior to the submission of the case, all or part of the testimony or other matter so taken down, and furnish as many copies thereof as may be required by law for the purposes of appeal; and for such transcription the party so requesting it shall pay into the judicial expense fund a fee of ten cents for each one hundred words transcribed. In the event both parties or the judge should direct the transcription, each party shall pay the expense of transcribing the testimony by him offered. No transcribed testimony shall be filed until the transcription fee shall have been paid; but no fees shall be allowed for transcribing matter other than testimony and notes of evidence. Such fees, when collected by the clerk, shall be by him paid as additional compensation to the stenographer performing the service in the same manner as the said stenographer's salary is paid, and shall be taxed as costs.

**COSTS.**

Sec. 4. Be it further enacted, etc., That in case the transcription of the stenographer's notes shall be requested by a litigant, after judgment, for the purpose of an appeal, the whole cost of such transcription shall be paid primarily by such party, but shall ultimately be taxed as costs.

**COSTS.**

Sec. 5. Be it further enacted, etc., That should any party refuse or fail, in case the court should direct the transcription of the notes of testimony, to pay his share of the cost of such transcription, or to file such transcribed testimony within a reasonable time to be fixed by the court, the case shall be decided as if the testimony of that party, not transcribed or filed, had not been offered.

**PRESERVATION OF NOTES.**

Sec. 6. Be it further enacted, etc., That said stenographers shall preserve their notes in each cause for the period of one year from the date of submission thereof.

**SUPPLIES FOR STENOGRAPHERS.**

Sec. 7. Be it further enacted, etc., That the clerk of said court shall furnish said stenographers with the supplies which they may need for the transcription of their notes.

**SUBSTITUTES FOR STENOGRAPHERS.**

Sec. 8. Be it further enacted, etc., That in the case of illness, disability or absence of any stenographer, the Civil District Court may direct another of said stenographers to perform his duties; or, if the public interest require it, the clerk, with the approval of the court, shall appoint a qualified person to serve during the period of such illness, disability or absence, who shall receive the same compensation and fees out of said Judicial Expense Fund as is hereinabove provided.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 9. Be it further enacted, etc., That this act shall take effect on the first day of the calendar month next following its promulgation.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That nothing herein contained shall be construed to repeal or otherwise affect the provisions of any law providing for the institution and prosecution of suits in forma pauperis.

Sec. 11. Be it further enacted, etc., That all laws or parts of laws in conflict herewith or on the same subject be and the same are hereby repealed.

Note. Act 141, 1914, p. 235, is on the same subject-matter, and though not repealed in terms, is so in fact, and therefore not printed in this edition.

**STATIONERY FOR OFFICERS, CLERKS, ETC.—ORLEANS.**

Act 132 of 1880, p. 179.

**TITLE.**

AN ACT to provide the necessary stationery for the various judicial and other officers of the Parish of Orleans.

**PROPOSALS FOR FURNISHING STATIONERY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in order to supply the necessary stationery to the various clerks, sheriffs, constables, and the register of conveyances and recorder of mortgages for the parish of Orleans, it shall be the duty of the Governor, President of the Senate and Speaker of the House of Representatives, immediately after the passage of this act, and annually thereafter, to advertise for proposals to furnish, during the ensuing year, the necessary stationery under contract. That the proposal shall be advertised in the official journal once a week for four weeks, and at the expiration thereof the contract shall be adjudicated to the lowest responsible bidder, with the concurrence of the Governor, President of the Senate and Speaker of the House of Representatives, or any two of them.

**CONTRACTS THEREFOR.**

Sec. 2. Be it further enacted, etc., That the contract shall be for the furnishing from time to time, and only such quantities as required, of the various articles of stationery, at the prices fixed in said contract; provided, that the State shall not be required to take, receive or pay for any stationery until the same has been called for and ordered in the manner hereinafter provided.

**REQUISITIONS FOR STATIONERY.**

Sec. 3. Be it further enacted, etc., That whenever any clerk, sheriff or constable of the several courts in the Parish of Orleans requires stationery of any kind he shall make out an exact detailed list of the articles required, and upon the approval thereof by the judge of said court that said articles are actually necessary, the Auditor of Public Accounts shall issue an order for such stationery to the party who shall have contracted to furnish the stationery, as hereinbefore provided for, and the articles shall thereupon be delivered to the officer requiring the same, and shall be receipted for by him.

**SAME BY REGISTER OF CONVEYANCES, ETC.**

**Sec. 4.** Be it further enacted, etc., That whenever the register of conveyances or recorder of mortgages for the Parish of Orleans requires stationery he shall make out a detailed statement thereof, and shall annex his affidavit thereto, that the said articles of stationery are actually necessary for use in his office; whereupon the Auditor of Public Accounts shall issue his order upon the contractor for such stationery, and the same shall be delivered to the officer requiring the same, and be receipted for by him.

**PAYMENT FOR STATIONERY.**

**Sec. 5.** Be it further enacted, etc., That the stationery furnished by the contractor upon the orders and in the manner aforesaid shall be paid for by the State Treasurer out of the judicial expense fund of the Parish of Orleans, upon the presentation of the list, approved or sworn to, with the warrant of the Auditor of Public Accounts and the receipt of the officer for the articles at the price fixed in the contract.

**FRAUD IN OBTAINING, ETC.**

**Sec. 6.** Be it further enacted, etc., That any officer or contractor who shall call for, approve, order, deliver, receipt or pay for any stationery, use or permit to be used for any other purpose than the public business of his office, or who shall remove, or appropriate to his own use, or permit to be appropriated or removed, any such stationery, shall be guilty of a misdemeanor, and upon conviction, shall be punished by fine and imprisonment, at the discretion of the court, and his office shall, by such conviction, be ipso facto vacated.

**CRIMINAL DISTRICT COURT; JURY COMMISSIONERS,  
ETC.**

**Act 98 of 1880, p. 124.**

**TITLE.**

**AN ACT** to organize the Criminal District Court of the Parish of Orleans as established by Article 130 of the Constitution of the State; to create a Board of Jury Commissioners for the Parish of Orleans; providing for the appointment of the same and the filling of vacancies therein; fixing the number of the board; defining its duties, powers and compensation; providing for the manner of drawing and delecting and empaneling grand, petit and tales jurors for the Parish of Orleans; providing for the division of the Criminal District Court for the Parish of Orleans into sections; providing for an annual vacation for each of the judges of said court; providing for the transfer of causes pending in the Superior Criminal and the First District Courts for the Parish of Orleans to the Criminal District Court for said parish; providing for the appointment of a shorthand reporter for the Criminal District Court for the Parish of Orleans and fixing his salary, and to repeal all laws and parts of laws in conflict herewith.

**BOARD OF COMMISSIONERS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That there shall be, in the parish of Orleans, a board of Jury Commissioners, composed of three registered voters, residing in the parish of Orleans, the acts of two of them to be as valid and binding as if performed by all.

**APPOINTMENT OF BOARD.**

**Sec. 2.** (As amended by Act 170, 1894, p. 211), Be it further enacted, etc., That immediately after the passage of this act the Governor shall appoint from the registered voters of the Parish of Orleans, three persons to be removable at his pleasure, who shall constitute a Board of Jury Commissioners, two of whom shall be a quorum. Each of said commissioners shall receive a salary of fifteen hundred dollars per annum, payable month-

ly, by the city of New Orleans; and in case of absence or inability to act, there should be no quorum of said board, the Governor shall appoint commissioners to fill such temporary vacancy or vacancies, who shall have all the powers of a Jury Commissioner under this act. The said commissioners shall select at large, impartially, from the citizens of the Parish of Orleans, having the qualifications requisite to register as voters, the names of no less than one thousand persons competent under this act to serve as jurors. A list of these names shall be prepared, certified to by the Commissioners, and kept as a part of the records of their office subject to the orders of the Judges of the Criminal District Court of said parish. The names on said lists shall be copied on slips prepared for the purpose with the number and address corresponding to that on the list, and shall be placed in the jury wheel, from which the drawing is to be made. No names shall be cancelled from said list or withdrawn from the jury wheel without an order of court, and the said list shall be a correct and perfect record of the names in the Jury Wheel. The said list shall be supplemented from time to time, as the necessities of Jury service require. No drawing shall be made from a list of less than one thousand names, unless in an extraordinary case when tales jurors are ordered by one of the judges of the Criminal District Court, he may in his discretion, in order to avoid delay, order said drawing from a list and jury wheel containing not less than six hundred names, and in such cases it shall be the duty of said commissioners immediately after said drawing to refill the said wheel and complete said list so as to reach the required number of one thousand names.

In order to secure none but good and competent jurors, the said commissioners shall at all times have access to, and the right to copy from the several books of registration of the Parish of Orleans, and shall have authority to apply to the Criminal District Court for such legal process as may be necessary to secure the attendance of witnesses and the production of the papers necessary in their investigations as to the competency of jurors; and in cases of contempt or disobedience, at their instance, the parties may be punished for contempt.

The said Commissioners shall have the power, and are hereby required to administer the following oath to all persons appearing before them:

"You will well and truly answer all such questions as may be put to you touching the qualifications of one ..... (or of yourself) to serve as a Juror, So help you God."

Any wilful and corrupt false swearing by any person before said commissioners, or either of them, shall be deemed wilful perjury and punished in the manner now prescribed by law for such offense.

The qualifications of a juror under this act shall be: To be a male citizen of the United States, and of this State, and a resident of the Parish for one year next preceding such service, not under interdiction, nor convicted of any crime punishable at hard labor in the State Penitentiary. He shall be an intelligent person of good moral habits and reputation, having the capacity and competency to serve as a Grand Juror. The Jury Commissioners shall qualify all persons before their selection as Jurors, and nothing in this act shall be so construed as to deprive the judges of the several district courts of the right to decide upon their competency.

Twelve days before the expiration of the monthly session of the Criminal District Court, the said commissioners, together with the said sheriff, shall draw from the said wheel the number of names, not less than seventy-five, ordered by either of the Judges of the Criminal District Court, and the person whose names shall be so drawn shall constitute the Petit Jury for the session succeeding such drawing, except in cases where it may be necessary to select a Grand Jury, in which case the persons composed said Grand Jury shall be first selected from the whole venire returned into court, and the remaining persons shall compose the Petit Jurors for the month; provided that in any case where a jury has been selected and empanelled for the trial of any cause pending in said court, if the same be not concluded within the month, the Jury so empanelled shall continue to serve until said cause is finally decided, or until otherwise discharged by the court.

The said Jury Commissioners shall select from the deputies appointed

by the Criminal Sheriff with the approval of the Judges of the Criminal District Court, to serve all subpoenas and papers for the said Board of Jury Commissioners, and when not so employed to be subject to such other service as may be required of them by the Criminal Sheriff. All objections to the manner of drawing juries or to any defect or irregularities than can be pleaded against any array or venire must be urged within the first three judicial days of the term for which said Jury was drawn, or all such objections shall be considered as waived and shall not afterwards be urged.

Note. The amendment of the original act was adopted in strict conformance with the provision of the Constitution. State vs. Murray, 47 A. 1424.

The list of names in the wheel is not intended to be open to public inspection, and a request of counsel to be permitted to examine it without specifying the necessity or purpose thereof, is properly refused. State vs. Aspara, 113 L. 940.

#### GRAND JURY.

Sec. 3. Be it further enacted, etc., That the Grand Jury for the Parish of Orleans shall consist of sixteen persons, twelve of whom shall constitute a quorum. It shall serve for three months unless sooner discharged by the court. Each Judge of the Criminal District Court shall, alternately, have entire control of the Grand Jury for the parish of Orleans, both as to its selection and instruction. In case of inability to act, from sickness or other cause, on the part of the judge to whose turn the care of the grand jury may devolve, the other judge of the Criminal District Court shall assume charge. The Judge whose commission is for the longer term shall have the selection and direction of the first grand jury organized under this act.

Note. The provisions of this article were entirely superseded by Const Art. 117. The Grand Jury consists of twelve members, and nine must concur in a verdict. The number required to constitute a quorum is the number which must concur to find an indictment, and not more than nine need be present during the deliberations. State vs. Pallet, 139 L. 697.

#### JURIES FOR CIVIL DISTRICT COURT.

Sec. 4. Be it further enacted, etc., That drawings of juries for the Civil District Courts of the Parish of Orleans shall be made by the Board of Jury Commissioners and the civil sheriff of the parish of Orleans, in the presence of the criminal sheriff of the Parish of Orleans, who shall at all times have the custody of the jury wheel or box. The jury wheel or box shall be emptied of its contents and refilled with other names, whenever so ordered by either of the judges of the Criminal District Court.

#### SELECTION OF JURIES.

Sec. 5. Be it further enacted, etc., That whenever a petit jury for the Criminal District Court has been drawn, as above provided, and before the trial of every cause, it shall be the duty of the criminal sheriff to place in a box the names of the persons composing the said petit jury, and to draw therefrom, in open court, by lot; and the order in which the names shall be thus drawn shall be that in which they shall be presented for empanelment; provided, in case the said panel should be exhausted, the names of the tales jurors, drawn in conformity with existing laws, shall be placed by said criminal sheriff in said box, and shall by him be drawn in open court, by lot, and that said tales jurors shall be presented for empanelment in the same manner as herein provided for the regular panel of petit jurors.

#### DIVISIONS OF CRIMINAL DISTRICT COURT.

Sec. 6. Be it further enacted, etc., That the criminal district court for the parish of Orleans be divided into two sections, "A" and "B" of the Criminal District Court for the Parish of Orleans; that the Judge appointed for the short term shall preside in section "B" of said court; that the Judge appointed for the long term shall preside in section "A" of said court; that each of said judges shall select the petit jury for his section, in conformity with the provisions of this act.

Note. The record need not show the manner or process by which an attachment is made. It is sufficient that it shows it was done, and the legal presumption follows that it was done rightly. State vs. Beeder 44 A. 1007.

**VACATION OF JUDGES.**

Sec. 7. Be it further enacted, etc., That each of the Judges of the Criminal District Court for the Parish of Orleans may have an annual vacation of three months, during the time from the first of June to the first of December, they regulating the time between themselves; provided, that the court shall remain open during the entire year, and either one of the two Judges shall hold court during the above mentioned period.

**TRANSFER OF CASES.**

Sec. 8. Be it further enacted, etc., That all cases pending in the Superior Criminal and the First District Courts for the Parish of Orleans, on the thirty-first day of July, eighteen hundred and eighty, be transferred to the Criminal District Court for the Parish of Orleans on the first Monday of August, eighteen hundred and eighty.

**SALARY OF STENOGRAPHERS.**

Sec. 9. (As amended by Act 64, 1912, p. 74). Be it further enacted, etc., That there shall be two official stenographers at a salary of \$2,400 a year each, for the Criminal District Courts for the parish of Orleans, one for each section of the court, to be appointed and sworn by each of its presiding Judges respectively. It shall be their duty, under the direction of the Clerk of the Criminal District Court, to prepare and make up the transcripts of all appeals taken from the judgments of the Criminal District Court for the Parish of Orleans, to report the proceedings in the trial of all capital cases and felonies where the punishment may be imprisonment at hard labor for a term exceeding five years, and in such other proceedings as in the opinion of the court may be important and necessary. They shall also be required by the court on the application of the prosecuting officer or foreman of the Grand Jury, report the testimony in any particular case before the Grand Jury; his notes of said testimony and the copy thereof shall be filed with the secret archives of the court to be used in the interest of public justice, subject to its orders.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all acts and parts of acts inconsistent herewith, be and they are hereby repealed, and that this act take effect on the first Monday in August, eighteen hundred and eighty.

Note. The act is not unconstitutional. If it be that sec. 4 is broader than the title, in providing for the drawing of jurors for the Civil District Court, the only effect would be to strike that section with nullity; but "the rest of the act constitutes a complete and sensible act. State vs. Crowley, 33 A. 781. State vs. Daion, 35 A. 1141. The constitutionality of the act is too well settled for further controversy. State vs. Brown, 128 L. 12. Nor is the act unconstitutional as being a local or special law. State vs. Daion, 35 A. 1141, nor that it confers judicial powers on the commissioners. State vs. Aspara, 113 L. 941. This act does not repeal Act 138 E. S. 1877 (printed at p. 1056) and an order made for an additional drawing when necessary, is not illegal. State vs. Alphonse, 34 A. 9.

The General Assembly was vested with authority to give the Governor power to appoint Jury Commissioners, and the fact that those officers may have to perform judicial duties (see 113 L. 941) does not make the Governor's act in appointing them, a judicial act. State vs. Pierre, 121 L. 485. The selection of one thousand persons to act as jurors, who are competent to serve in that capacity is not a discrimination. A proper construction of the act repeals the idea that the right to register as voters of itself determined their competency to act as jurors. State vs. Chase, 37 A. 165. State vs. Egan, 35 A. 369. State vs. Aspara, 113 L. 942

The number of jurors drawn for service and the aggregate number appearing on the lists did not tally. The difference was caused by returning to the wheel the names of jurors who had not been served etc., without noting the names on the list held irregular, but in the absence of fraud or irreparable injury the trial was not thereby invalidated. State vs. Egan, 37 A. 388. State vs. Aspara, 113 L. 940. Nor are the drawings invalidated, because the clerks of the court were present, but did not participate. State vs. Aspara, 113 L. 940. The drawing of tales jurors need not be in open court. State vs. McLaughlin, 138 L. 558.

The participation of the criminal sheriff with the jury commissioners in the drawing of the names of jurors for service, is a ministerial function, which he may discharge through a deputy. State vs. Aspara, 113 L. 940. (This case considers almost every possible attack on the act, and the opinion of Chief Justice Monroe is enlightening).

**DRAWING OF TALES JURORS.****Act 138, E. S. 1877, p. 209.****TITLE.**

AN ACT to provide for the drawing of tales jurymen in criminal trials in the parish of Orleans in all cases where the accused is charged with a felony, and for summoning the same.

**Section 1.** Be it enacted by the Senate and the House of Representatives of the State of Louisiana in General Assembly convened, That whenever on the trial of any criminal case in the parish Orleans where the accused is charged with a felonious crime the regular panel of jurors for the term has been exhausted and the jury in the case on trial is not complete, or when, in the opinion of the judge, in the case fixed for trial talesmen are or will be required to complete the jury, the judge shall enter an order on the minutes directing the Criminal Sheriff, or one of his deputies, to draw such number of tales jurors as in the opinion of the court may be necessary to complete the jury from the jury wheel containing the jurymen drawn by the jury commissioners, and hereafter no tales jurymen shall be drawn from the bystanders in cases where the accused is charged with a felony.

**Sec. 2.** Be it further enacted, etc., That it shall be the duty of the Criminal Sheriff of the parish of Orleans at once, after such drawing, to summon said jurymen to attend at such time as the court shall have designated in said order.

**Sec. 3.** Be it further enacted, etc., That this act shall take effect from and after its passage.

**JUDGE OF ONE SECTION MAY TRY CASE ALLOTTED TO ANOTHER.****Act 117 of 1890, p. 159.****TITLE.**

AN ACT making it the duty of the judge of one section of the Criminal District Court for the Parish of Orleans, to try, with the consent of the accused or prisoner any cause allotted to the other section in all cases of vacation of the other section, or whenever the judge thereof may be sick, absent or otherwise disabled from acting or for any cause other than vacancy or recusation.

Whereas, legal notice of the intention to apply for the passage of this law has been given in the manner required by article 48 of the Constitution of this State and the evidence thereof has been exhibited to the General Assembly.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the judge of one section of the Criminal District Court for the Parish of Orleans, to try, with the consent of the accused or prisoner, any cause allotted to the other section in all cases of vacation of the other section or whenever the judge thereof may be sick, absent or otherwise disabled from acting or for any cause other than vacancy or recusation.

**Sec. 2.** Be it further enacted, etc., That the consent of the accused or prisoner to be so tried shall be obtained and declared in open court at any time before trial and shall be entered upon the minutes of the court, and the case shall be tried according to such rules as the court may make.

**Sec. 3.** Be it further enacted, That this act shall take effect from and after its passage.

**Note.** The Record need not show the manner or process by which an allotment is made. It is sufficient that it shows the fact, and the legal presumption follows that it was rightly done. *State vs. Beder*, 44 A. 1097. The transfer of a criminal case from one to the other Division of the Criminal District Court is legal and constitutional when made at the request of the accused in open court, and is evidenced by the minutes of the court. *State vs. Arbana*, 105 L. 719; *State vs. O'Malley*, 115 L. 1095, (discussing the rule of court made in keeping with the act).

**DEPUTY CLERKS CRIMINAL DISTRICT COURT,  
SALARIES.**

**Act 223 of 1918, p. 405.**

**TITLE.**

**AN ACT relative to deputies to the clerk of the Criminal District Court for the Parish of Orleans, their appointment and salaries.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana that the salaries of the deputies to the Clerk of the Criminal District Court for the Parish of Orleans are hereby fixed as follows:

One docket clerk at eighteen hundred dollars per annum.

One minute clerk at twenty-one hundred dollars per annum.

One minute clerk at eighteen hundred dollars per annum.

Two assistant clerks at twelve hundred dollars per annum, each.

Five record clerks at twelve hundred dollars per annum, each.

Provided that the Commission Council of the City of New Orleans shall have the right to appoint additional clerks and to fix their compensation.

**Sec. 2.** Be it further enacted, that all laws or parts of laws contrary to or inconsistent or in conflict with the provisions of this act be and the same are hereby repealed.

**CRIMINAL JURISDICTION OF VARIOUS COURTS.**

**Act 11 of 1906, p. 18.**

**TITLE. (As amended by Act 71, 1918.)**

**AN ACT granting to Judges and Recorders jurisdiction over all persons arrested and charged with any crime, misdemeanor or offense, and defining their authority to grant bail, or to parole or release in such cases.**

**GIVING JUDGES AND RECORDERS AUTHORITY TO GRANT BAIL.**

**Section 1.** (As amended by Act 71, 1918). Be it enacted by the General Assembly of the State of Louisiana, That the Judges of the respective District Courts throughout the State, the Judges of the City Criminal Courts in the City of New Orleans, and the Recorders of the City of New Orleans, be and they are hereby vested with jurisdiction over any person or persons arrested for any crime, misdemeanor, or offense, under and within their respective jurisdictions, from the moment said person is arrested and taken into custody by any sheriff, deputy sheriff, police officer, constable, or other person authorized by law to make arrests, viz: Judges of the District Courts shall have such jurisdiction over persons arrested for crimes, misdemeanors or offenses within the jurisdiction of the Courts over which they preside; and Recorders of the City of New Orleans shall have jurisdiction over persons arrested for violations of city ordinances; and such Judges and Recorders shall have the power and authority to immediately release on bail or in their discretion parole, or release said persons so arrested over whom they have jurisdiction as aforesaid.

**RECORDS OF ARRESTS TO BE KEPT.**

**Sec. 2.** Be it further enacted, etc., That in order to carry out the provisions of Section 1 of this Act, it shall be the duty of any sheriff, deputy sheriff, constable, police officer, or other person, making any arrest of any person for any crime, misdemeanor or offense, to immediately conduct said person so arrested to the nearest jail or police precinct station, and immediately cause his name to be entered on a book to be kept for that purpose, and also the crime, misdemeanor, or offense with which he is charged, and for which he has been arrested, and said book shall always be kept open for the inspection of the public, and the officer in charge of same shall furnish to any person desiring same a certified copy of any entry thereon.

**INSPECTOR OF POLICE AUTHORIZED TO RELEASE PRISONERS.**

Sec. 3. Be it further enacted, etc., That the foregoing provisions shall not be construed, as in any wise intending to deprive or divest the Inspector of Police of the City of New Orleans, of the right to release upon his own responsibility any prisoner, at any time previous to his or her actual arraignment in open court.

Sec. 4. Be it further enacted, etc., That all laws or parts of laws contrary to or in any wise in conflict herewith be and the same are hereby repealed.

**FIRST AND SECOND CITY CRIMINAL COURTS.**

**Act 123 of 1898, p. 179.**

**TITLE.**

**AN ACT** to provide for the organization of the First and Second City Criminal Courts of the Parish of Orleans, providing for their officers and their duties, and for certain rules of procedure and the effects thereof in the cases within their jurisdiction.

**ACCOMODATIONS FOR COURTS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the City of New Orleans shall provide suitable accomodations for the First and Second City Criminal Courts, established by Article 140, of the Constitution of 1898, to be ready for the transaction of business after the election of its judges in November, 1898, say December 1, 1898.

The City Council of New Orleans shall have full power to select the location or locations of these courts.

**OFFICIAL STENOGRAPHERS.**

Sec. 2. Be it further enacted, etc., That the judges of said courts shall each appoint an official stenographer, removable at their pleasure, who shall be duly sworn to the faithful discharge of his duties. He shall receive a salary of fifteen hundred dollars per annum, payable in monthly installments by the City of New Orleans, and shall also be a deputy clerk. It shall be his duty to take verbatim notes of all the testimony in cases heard before said courts; but his notes need not be transcribed except in cases of appeal, or when the cause is remanded to or comes before the Criminal District Court, or where, in the interest of public justice, the Judge orders its transcription. When the testimony is transcribed it shall be certified to by the stenographer and signed by the judge. It need not be signed by the witnesses, but the judge or either party may require the testimony to be read to the witnesses for the purpose of correcting errors, omissions, or inaccuracies. When the testimony so taken is certified to by the stenographer and signed by the judge, it may be used as evidence in any subsequent judicial proceedings in case of the death or absence of the witness from the State.

**SHERIFF AND DEPUTIES.**

Sec. 3. (As amended by Act 81, 1900, p. 130). Be it further enacted, etc., That the Criminal Sheriff of the Parish of Orleans shall be executive officer of said courts, and shall appoint six Deputy Sheriffs for each of said courts to execute its orders and decrees. The salaries of those deputy sheriffs shall be the same as those paid to the deputy sheriffs in the Criminal District Court, and the Council of the City of New Orleans shall provide for the payment thereof according to law. All fines imposed by said courts shall be paid to the Criminal Sheriff of the Parish of Orleans, who shall account therefor to the City of New Orleans as in the case of fines imposed by the Criminal District Court.

**CHIEF CLERK—SALARY.**

Sec. 4. (As amended by Act 29, 1914, p. 93). Be it further enacted, etc., That the judges of said courts shall each appoint one chief clerk at a

salary of twelve hundred dollars per annum, and two assistants at a salary each of twelve hundred dollars per annum, removable at the pleasure of said judges. The clerks shall have the power of administering oaths.

**TRANSFER OF CAUSES FROM OTHER COURTS.**

Sec. 5. Be it further enacted, etc., That all causes and proceedings whatsoever pending in the Criminal District Court on the 30th of November, 1898, and as to which the First and Second City Criminal Courts have jurisdiction under the Constitution shall be transferred to said courts respectively. All cases occurring in the First, Fourth, Sixth and Seventh Municipal Districts shall be transferred to the First City Criminal Court, and those occurring in the Second, Third and Fifth Municipal Districts shall be transferred to the Second City Criminal Court.

**FROM CRIMINAL DISTRICT COURT.**

Sec. 6. Be it further enacted, etc., That whenever the Grand Jury for the Parish of Orleans shall file an indictment in the Criminal District Court charging an offense of which the City Criminal Courts have jurisdiction, the indictment shall be immediately transferred to the lower court having jurisdiction of the cause for all further proceedings thereunder.

**JURISDICTION OF COURTS.**

Sec. 7. Be it further enacted, etc., That offenses committed in one jurisdiction of the City Criminal Courts and completed in another or within fifty feet of the boundary line between the two jurisdictions, may be tried in either court. The court in which the prosecution is first instituted shall have jurisdiction.

**PROSECUTION BY AFFIDAVITS.**

Sec. 8. Be it further enacted, etc., That prosecutions may be on affidavits, provided that they shall be governed in all respects by the rules pertaining to indictments and informations as to its essential allegations.

**MERGING OF OFFENSES.**

Sec. 9. Be it further enacted, etc., That, if, in the trial, or investigation of cases before the City Criminal Courts it should be found that several offenses grow out of the same state of facts, of which the lower and higher courts respectively have jurisdiction, the lesser offense shall be merged in the greater, and the judge shall remand the cause for further proceedings to the Criminal District Court, which court shall have exclusive jurisdiction of same. On the trial of such cases, however, an accused may be convicted of the lesser offense whether charged in a separate court or not.

**ENDORSEMENT OF FINDING—JUDGMENT—NEW TRIAL, ETC.**

Sec. 10. Be it further enacted, etc., That on the trial of any cause the finding by the court of "guilty" or "not guilty" shall be endorsed with the date on the instrument upon which the accused is tried, whether an indictment, information or affidavit, and shall be signed by the judge on the day of such finding. Three days thereafter judgment shall be pronounced upon this finding, unless the accused waives the delay by asking for sentence, or unless a new trial has been moved. A new trial may be moved any time before sentence and the judgment of the court on the trial of such motion shall be endorsed with the date and signed by the judge on the reverse of the instrument upon which defendant was tried. If the application is refused the court shall then and there pronounce sentence, which judgment, as in the case of the others shall also be endorsed with the date and signed by the judge on the back of the instrument.

**APPEALS.**

Sec. 11. Be it further enacted, etc., That all appeals taken from the judgments of the City Criminal Courts shall be by oral or written motion in open court within three judicial days after the rendition of final judgment. They shall be returnable to the Criminal District Court within five days, but upon application to the Appellate Court this term may, in case of necessity, be extended.

**STENOGRAPHERS NOTES.**

Sec. 12. Be it further enacted, etc., That in cases of appeal it shall be the duty of the stenographer, immediately, to transcribe all his notes and turn them over to the chief clerk, whose duty it shall be to prepare the record for the Appellate Court. This will consist of the affidavit, information or indictment, bond, testimony and every document, instrument, property or thing whatsoever in possession of the Court, filed in or pertaining to the cause. The clerk shall make, in duplicate, a list of each specific thing or document in the record, whose correctness shall be certified to by the judge on one of the lists. This record and all that it contains and the signed list shall then be filed with the clerk of the Criminal District Court who will receipt for same by signing the other list. When the appeal is taken it divests the City Criminal Courts of all further jurisdiction in the case.

**ERRORS IN RECORD OF APPEALS.**

Sec. 13. Be it further enacted, etc., That in no case shall an appellant be responsible for any errors, omissions or oversights in the record of appeals. The chief clerk, or in his absence, the clerk designated by the judge, shall prepare the record and shall be responsible for its errors and omissions, of, for any failure to faithfully discharge his duties in relation to it. Any dereliction in this respect shall be punishable as to a contempt by the Appellate Court.

**EXCEPTIONS TO RULINGS.**

Sec. 14. Be it further enacted, etc., That in excepting to the ruling of the court on any question of law or of fact no formal bill of exception shall be required, but the point reserved shall be stated and taken down by the stenographer, as also the reply of the opposing party, and the ruling of the court, and these shall stand in lieu of a bill.

**VACATION OF JUDGES.**

Sec. 15. Be it further enacted, etc., That each of the judges of the City Criminal Courts shall have an annual vacation of two months between June the first and October the first of each year, the time to be arranged between themselves; provided, that one of the courts shall always be in session.

**TRANSFER FOR TRIAL TO OTHER DIVISION OF COURT.**

Sec. 16. Be it further enacted, etc., That in case of the absence of one of the judges of the City Criminal Courts on account of his vacation or on account of sickness, disability, recusation, or vacancy in the office, any accused confined in jail and unable to give bond, may, by motion in open court have his case transferred for trial to the court in session, and such cases and all jail cases shall be tried by preference.

**PROCEDURE.**

Sec. 17. Be it further enacted, etc., That in all other respects not provided for in this Act and not conflicting herewith the proceedings before the City Criminal Courts shall be in accordance with existing laws.

**REPEALING CLAUSE.**

Sec. 18. Be it further enacted, etc., That this act shall go into effect December 1, 1898. All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Note. The prosecution after showing the absence of the witness (not permanent absence) offered in evidence his testimony taken at the preliminary examination under the provisions of this act. The judge admitted the testimony over objection by defendant that it was not shown that the witness was permanently absent. Held that the admission of the evidence vitiated the verdict. State vs. Banks, 106 L. 480. A sufficient foundation for the admission of evidence taken at a preliminary trial is laid, where it is shown that the witness resides out of the State, that after testifying at the preliminary trial he was seen on a west bound train, presumably bound for Mexico and has not been seen in the State since. State vs. Bolden, 106 L. 484. The Constitutional right of the accused to be confronted by the witness is preserved, when he is so confronted by the witness at the preliminary trial. State vs. Banks, 115 L. 22.

**JUSTICES OF THE PEACE.**

[R. S., Sec. 2044.] Election and term of office. Now controlled by Const. Art. 126 and Act 130, 1916; Sec. 2, printed under title "Elections."

**QUALIFICATIONS OF JUSTICE OF THE PEACE.**

**Act 155 of 1898, p. 293.**

**TITLE.**

AN ACT relative to Justices of the Peace in this State, the Parish of Orleans excepted; prescribing their qualifications and the manner of testing the same; and requiring proof of such qualifications prior to their being commissioned by the Governor.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in addition to the qualification prescribed by Article 126, of the Constitution, Justices of the Peace shall be able to read and write the English language correctly and be citizens of good moral character and standing in the community in which they are elected or appointed to serve.

Sec. 2. (As amended by Act 39, 1904, p. 76). Be it further enacted, etc., That no commission shall hereafter be issued to any person as Justice of the Peace until he shall have filed in the office of the Governor or Secretary of State, a certificate signed by the Board of School Examiners of his parish showing that he possesses all of the qualifications required of him by law. Provided, that should any person elected to the office of Justice of the Peace fail to furnish such certificate within sixty days after the election, the office shall be deemed vacant and the Governor shall have power to fill same by appointment for the remainder of the term, and provided further, that any person who has heretofore been elected to the office of Justice of the Peace and has not filed said certificate and who shall fail to file same within thirty days after the promulgation of this Act shall be deemed as coming under the provisions hereof.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

**[Number to Be Elected.]**

[R. S., Sec. 2045.] As many Justices of the Peace shall be elected in and for each ward in the several parishes by the qualified voters resident of the ward, as the people of each of the wards respectively are now entitled by law to elect members of the Police Jury, but in those wards in which there is an incorporated town, or a town containing three hundred inhabitants, there shall be elected two Justices of the Peace.

**[Returns of Election; Commissions.]**

[R. S., Sec. 2046.] The returns from each ward shall be made according to law, and the Governor of the State shall issue commissions to the persons elected as Justices of the Peace, and the Justices shall enter upon the discharge of their duties as soon as they shall have received their commissions and take the oath required by the Constitution, and shall remain in office until their successors shall have been elected and qualified.

*Note.* Election returns provided for by Act 130, 1916, printed under title "Elections."

[R. S., Sec. 2047.] Jurisdiction now governed by Const. Art. 126.

**[Authority to Celebrate Marriages.]**

[R. S., Sec. 2048.] They may celebrate marriages within their respective jurisdictions.

Note. Is this authority within the jurisdiction conferred by Const. Art. 126?

**[May Issue Writs of Injunction.]**

[R. S., Sec. 2049.] Justices of the Peace are authorized and empowered to issue writs of injunction enjoining the execution of judgments emanating from their respective courts in the manner and for the reasons authorizing the issuing of writs of injunction on judgments rendered by the District Courts of this State, the party requiring the same to furnish the same proof, and give the same bond and security as is required to obtain the same from the District Courts of this State.

**WHEN JUSTICES MAY ISSUE WRITS OF EXECUTORY PROCESS.**

**Act 196 of 1916, p. 446.**

**TITLE.**

**AN ACT** to empower Justices of the Peace in cities and towns of over fifty thousand inhabitants and in the City of New Orleans the Judges of the First and Second City Courts in causes within their jurisdiction to cause executory process to issue proceed via executiva.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Justices of the Peace in cities and towns of over fifty thousand inhabitants and in the City of New Orleans the Judges of the First and Second City Courts are hereby authorized and empowered to cause executory process to issue and proceed via executiva in causes within their jurisdiction.

Sec. 2. Be it further enacted, etc., That nothing herein contained shall be construed to diminish or lessen in any way any of the powers and authority of the aforesaid Justices of the Peace and Judges that they now possess or exercise under the existing laws.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict herewith are hereby repealed.

[R. S., Sec. 2050.] Territorial jurisdiction in civil matters. C. P., Art. 1070.

**[Constables Pro Tem.]**

[R. S., Sec. 2051.] The Justices of this State, without the limits of New Orleans, shall have power to appoint Constables, *pro tempore*, whenever there shall be no such officer elected for their respective districts, in the manner directed by law.

**WHEN JUSTICES MAY EMPLOY SHERIFF.**

**Act 164 of 1900, p. 248.**

**TITLE.**

**AN ACT** to amend and re-enact Act No. 92 of the General Assembly of the State of Louisiana of 1896, approved July 9, 1896, entitled "An Act to amend and re-enact Act No. 110 of the General Assembly of 1898, en-

titled 'An Act authorizing Justices of the Peace throughout the State to employ either the Sheriff or his deputy in certain cases,' approved July 12, 1888."

**AMENDMENT OF ACT 92, 1896.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act No. 92, of the General Assembly of the State of Louisiana, of 1896, approved July 9, 1896, entitled, "An Act to amend and re-enact Act 110 of the General Assembly of 1888," entitled "An Act authorizing Justices of the Peace throughout the State to employ either the Sheriff and his deputy in certain cases," approved July 12, 1888, be and the same is hereby amended and re-enacted so as to read as follows:

**AMENDMENT ACT 110, 1888.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act No. 110 of the General Assembly of 1888, entitled "An act authorizing Justices of the Peace throughout the State to employ either the sheriff or his deputy in certain cases", approved July 12, 1888, be and the same is hereby amended and re-enacted so as to read as follows, to-wit:

**EMPLOYMENT OF SHERIFF.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in case of the inability or refusal to act on the part of the Constable because of relationship, sickness, or from other causes in civil suits, and in case of the execution of conservatory writs in civil suits, the Justices of the Peace throughout the State, are authorized to employ either the Sheriff or his deputy or to appoint a special Deputy Constable to execute all orders, citations, summonses, seizures and writs.

**SAME SUBJECT.**

Sec. 2. Be it further enacted, etc., That when there is a Constable not disqualified to act because of relationship, or unable to act on account of sickness or other causes, and who is willing to act, and who is personally present when conservatory writs are sued out, then and in these cases, the Justice of the Peace for whose ward said Constable shall have been elected or appointed or qualified, shall employ said Constable to the exclusion of the Sheriff or his deputy, or a special Deputy Constable, to execute all orders, citations, summonses, seizures and writs in civil cases, and in such cases services made by other than the said Constable shall be void and of no effect.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

[R. S., Sec. 2052.] Appeals from courts of Justice of the Peace are tried *de novo*. Const. Art. 111.

**[Jurisdiction Over Infraction of Levee Laws, Etc.]**

[R. S., Sec. 2053.] The several Justices of the Peace throughout the State (except in the incorporated cities) are hereby authorized and empowered to take cognizance of and exercise jurisdiction over all infractions of the levee laws, and municipal ordinances and regulations of the respective parishes where the penalty imposed in the law or ordinance that is alleged to be contravened does not exceed one hundred dollars.

[R. S., Sec. 2054.] Power to appoint "curator ad lites" in certain cases. C. P., Art. 1155, part 2.

[R. S., Sec. 2055.] In absence of Notary, etc., Justice may protest bill and notes. R. S., Sec. 329.

**[When Justices May Act As Coroner.]**

[R. S., Sec. 2056.] Justices of the Peace in the country parishes are empowered to perform the duties of the Coroner, in case of there being none, or his absence or inability to attend.

[R. S., Sec. 2057.] Proceedings to eject tenants. R. S., Sec. 2155.

[R. S., Secs. 2058 to 2068.] Justices as Committing Magistrates. R. S., Secs. 1010 to 1020, title "Criminal Proceedings."

[R. S., Sec. 2069.] Jurisdiction relating to right of seamen to obtain their discharge by masters of vessels, etc. R. S., Sec. 3479, title "Seamen."

[R. S., Secs. 2070 to 2079.] Election of Justices of the Peace for Parish of Orleans; terms of office, jurisdiction, costs, appeals, etc, etc. Under Consts. 1879, 1898 and 1913 the courts do not exist. The First and Second City Courts have been established instead.

[R. S., Sec. 2080.] Appeals, when allowed. C. P. Art. 1128 was amended by Act 226, 1908.

[R. S., Sec. 2081.] Suspensive Appeals. C. P. Art. 1131 as amended by Act 214, 1914.

**[Second Appeals.]**

[R. S., Sec. 2082.] Whenever an appeal shall be taken after the delay above mentioned, or when, on account of insufficiency of the appeal bond, or some other irregularity, the judge, after hearing the parties, shall be of the opinion that the appeal must be set aside, then he will reserve to the appellant the right of renewing his appeal: PROVIDED, That the appeal so renewed shall not prevent the other party, in whose favor the judgment was rendered, from enforcing the execution thereof; provided, also, that ten judicial days have not elapsed since the signing of the judgment and its notification to the party cast.

**[Entries on Record as Evidence.]**

[R. S., Sec. 2083.] Justices of the peace shall enter on their records a minute, stating the names of the witnesses and designating the documents read or offered, and such minute shall be received on the trial of the appeals as proof of the fact.

**[Failure to Prosecute Appeal.]**

[R. S., Sec. 2084.] If the appellant from the judgment of a justice of the peace fails to appear to prosecute his appeal, agreeably to law, it may be dismissed on motion of the appellee, and no other appeal shall be afterwards taken.

[R. S., Sec. 2085.] The judgment on appeal from the decision of a justice of the peace shall be sent back to the said justice to be executed.

[R. S., Sec. 2086.] Appeals to Supreme Court in certain cases. Superseded by Const. (1913) Art. 130.

**[Justices Acting for One Another.]**

[R. S., Sec. 2087.] In case of sickness, or pending proceedings for the removal of any justice of the peace in the parish of Orleans, any other justice in the parish may act in his stead.

**[Execution; New Trial.]**

[R. S., Sec. 2088.] No execution shall issue upon any judgment by a justice of the peace in the parish of Orleans until three judicial days after notice of the judgment signed shall have been served upon the party against whom the judgment shall have been rendered, or in case of his absence, upon his attorney or curator *ad hoc*, appointed by the justices of the peace to represent him, and the party may, within three days, pray for a new trial, or appeal from the judgment upon complying with the requisites of the law.

*Note.* In Cohen vs. Otis (a case from New Orleans), 127 L. 6, the court held: "We may add that we have been referred to no law or rules of court authorizing a delay for filing a motion for a new trial in a city court." This section of the Revised Statutes is not mentioned in the opinion.

[R. S., Secs. 2089, 2090.] Fees for Record of Appeal, for taking testimony. Superseded by Act 136, 1800, printed on page

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**[Sequestration; Plaintiff May Bond.]**

[R. S., Sec. 2091.] For actions of sequestration before the justices, whenever the defendant shall fail or neglect to execute his bond in favor of the constables, with one good and solvent security, for whatever amount the justice may determine, as being equal to the value of the property to be left in his possession, within three days after the notice of the seizure by the constable, it shall then be lawful for the plaintiff, his agent or attorney, to give similar bond or security to the constable as that required by law from the defendant, and take the property sequestered into his possession.

**[Leave of Absence.]**

[R. S., Sec. 2092.] Any of the justices may have leave of absence during the month of August of each year; provided they procure another justice of the peace to act in their place.

[R. S., Secs. 2093 to 2097.] Appeals returnable to Third District Court; Jurisdiction of Justices of Wards in Parish of Orleans; Appointment of Clerk. Superseded by Const. Arts. 130, 143, 144.

[R. S., Sec. 2098.] Justices in Orleans may grant licenses to celebrate marriages. R. C. C., Art. 99.

[R. S., Secs. 2099, 2100.] Prohibited to issue garnishment against City and Board of Metropolitan Police. Act 35, E. S. 1877, repeals R. S., Secs. 2296, 2297, which are like these sections.

[R. S., Sec. 2101.] Jurisdiction of Justices in Orleans. Courts ceased to exist when Const. 1879 established City Courts instead.

[R. S., Secs. 2102 to 2106.] Appointment, salary, etc., of Recorders in City of Jefferson. City of Jefferson ceased to exist after adoption of Act 7, E. S. 1870, p. 30.

[R. S., Secs. 2107 to 2112.] Jurisdiction, etc., of Justices of the Peace for Parish of Jefferson. These sections have been superseded by subsequent legislation establishing a different number of Justices (Act 89, 1871, p. 205), and other acts relating to the subject—Acts 74, 1908, p. 90; 85, 1908, p. 104.

**[Justices of Who Have Power of Recorders in New Orleans.]**

[R. S., Sec. 2113.] The Justices of the Peace of the First and Second Wards of the Parish of St. Landry, said wards embracing the towns of Washington and Opelousas, are hereby vested with the same power and authority as is exercised by the recorders in the city of New Orleans, in all criminal matters arising within the parish.

Note. Act 39, 1876, p. 76, establishes J. P. wards in St. Landry. Act 49, 1880, p. 41, creates an additional J. P. for Twelfth ward. Act 46, 1877, p. 60, grants power and authority to commit for crimes and misdemeanors.

**[Commitment For Offenses.]**

[R. S., Sec. 2114.] The said Justices be hereby authorized and empowered to commit for all crimes and misdemeanors and offenses against the State.

Note. Act 46, 1877, p. 60, noted above.

**[Confinement of Prisoners.]**

[R. S., Sec. 2115.] All persons imprisoned under the sentence of said justices and by virtue of the powers herein granted shall be confined in the parish prison.

**[Deposit of Collections in Parish Treasury.]**

[R. S., Sec. 2116.] All fines collected by said justices by virtue of the powers herein granted shall be by them paid into the parish treasury monthly.

**[Prisoners in Parish Jail to Work on Public Roads.]**

[R. S., Sec. 2117.] All persons confined in the parish prison under the provisions of this act shall, during the term of their sentence, be liable to work upon the public works, roads

and thoroughfares within the parish, and under such rules and regulations as the police jury thereof shall make.

[**R. S., Sec. 2118.**] Confers certain powers on Justice of the Peace for ward in which City of Monroe is situated. By Act 138, 1898, p. 250, Justice of the Peace courts for Monroe were abolished and the City Court of the City of Monroe established.

[**R. S., Secs. 2119 to 2124.**] Act 112, 1869, p. 144. Recorders' Courts in the city of Shreveport repealed by Act 83, 1876, p. 128.

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## **JURY.**

[**R. S., Secs. 2125 to 2135.**] Relate to manner of drawing juries, etc. The last act on the subject, with amendments noted, is

**Act 135, 1898, p. 216.**

### **TITLE.**

AN ACT relative to juries in and for the State of Louisiana, the Parish of Orleans excepted, and to carry out the provisions of Articles 116 and 117, of the Constitution, to prescribe the qualifications of grand and petit jurors and the exemption of certain persons from service as jurors; to provide for a Jury Commission in each parish; to prescribe the manner of drawing juries and of selecting grand and petit jurors, and to confer on District Judges certain discretionary powers in relation thereto; to provide for the summoning of jurors, prescribing means to enforce their attendance; and penalties for their non-attendance; for their compensation and for the taxing of jury costs in civil jury cases; to fix the number of peremptory challenges in civil and criminal jury cases, and to repeal Act No. 99, of the General Assembly of 1896, entitled: "An Act relative to juries, etc.," approved July 9, 1896, and all laws or parts of laws in conflict with the provisions of this Act.

### **QUALIFICATIONS OF JURORS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the qualifications of a juror to serve in any of the courts of this State shall be as follows:

To be a citizen of the United States and of this State, a bona fide male resident of the parish in and for which the court is holden for one year next preceding such service not under interdiction or charged with any crime or offense nor convicted at any time of any crime or offense punishable by hard labor, unless he has been pardoned, and to be a competent and intelligent person of full age having capacity to serve as a juror to try and determine both civil and criminal cases, provided that there shall be no distinction made on account of race, color, or previous condition; and provided further, that the judges of the District Courts shall have discretion to decide upon the competency of jurors in particular cases where from physical infirmity or from relationship or from ignorance of the English language and inability to understand the same when read or spoken, or other causes, the person may be, in the opinion of the judge, incompetent to sit upon the trial of any particular case. In addition to the foregoing qualifications, a grand juror shall be able to read and write the English language and be a person of well known good character and standing in the community.

Note. See Act 18, 1906, printed p. 1076.

**Note.** One against whom a charge is pending of having failed to pay the per capita road tax is not a competent Grand Juror, and a motion to quash an indictment found by a grand jury of which he was a member was properly maintained. State vs. Nicholas, 109 L. 86. The rejection of a juror by the judge—even if erroneous—is not legal ground of complaint. State vs. Thompson, 116 L. 829; State vs. Sheriff, 118 L. 194; State vs. Kennedy, 133 L. 945. A Grand Juror is not incompetent because charged with the violation of a municipal sanitary ordinance, which is neither a crime or offense. State vs. Calhoun, 117 L. 82. The removal of a juror for prejudice is not objectionable. State vs. Poindexter, 117 L. 380. Qualification of Grand Juror, ability to read and write. State vs. McClendon, 118 L. 792. Temporary absence from the Parish does not disqualify for jury service. State vs. Wineby, 119 L. 139. Jurors are not incompetent because of their lack of knowledge of the law relative to self defense, burden of proof, etc. State vs. Willie, 130 L. 454. Jurors are to be selected for their competency, regardless of race or color. Each commissioner is to determine on his responsibility and oath and commissioners should look beyond the apparent and technical qualifications of the persons whom they select. State vs. Turner et al, 133 L. 555. (The opinion treats the subject at some length). Competent jurors, who have not been called to render service, are not disqualified or exempt. State vs. Alles, 133 L. 563. The accused has no legal right to be tried by jurors from a particular portion of the parish, or by jurors speaking his language. State vs. Manuel, 133 L. 571. The District Judges have discretion to decide on the competency of jurors in special cases and the discretion will not be interfered with by the Supreme Court. State vs. Blue, 134 L. 561; State vs. McCollum, 135 L. 432. The Supreme Court will not interfere with the discretion unless some violation of the law is shown, and exception is properly taken at the time. State vs. Duval, 135 L. 710. The judge is vested with some discretion in the matter of excusing or discharging a limited number of the regular jurors. State vs. Ardoin, 136 L. 1098.

#### PERSONS EXEMPT FROM JURY DUTY.

**Sec. 2.** Be it further enacted, etc., That the following persons shall be exempt from serving as grand or petit jurors, but the exemption shall be personal to them and when they do not themselves claim the exemption, it shall not be sufficient cause for challenging any person exempt under the provisions of this Act, viz.:

First—The members, the officers and the clerks of the General Assembly, during the session of the Legislature and in going and returning from the same.

Second—The Governor, Lieutenant Governor, State Auditor, State Treasurer, Secretary of State, Superintendent of Public Education, their clerks and employees and all public officers commissioned under authority of the United States.

Third—Judges and officers of the several courts of this State, members of the Police Jury, attorneys-at-law, ministers of the gospel and physicians actually engaged in the practice of their profession, professors and school teachers, apothecaries and notaries and all members of paid fire departments.

Fourth—All persons over sixty (60) years of age, those who from sickness or other physical infirmity may be incapacitated from rendering such service, and those who have served as grand jurors under the provisions of this Act during the period of six (6) months, and those who have served as petit jurors as herein provided, who shall not again be called as jurors until after the expiration of one year from the date of their service.

Fifth—All telegraph and telephone operators actually employed as such agents representing them at various stations. Also chief engineers of electric, water works, ice plants and sugar factories while actually engaged in the performance of their respective duties.

**Note.** On a motion in arrest of judgment, defendant suggested that a member of the Grand Jury which had found the indictment, was at the time a member of the School Board. Held the exemption was personal and when not claimed, is not cause for challenging the competence of the juror. State vs. Rosberry, 113 L. 651. Exemption from service as juror because of previous service is also personal, and will not avail the defendant in a motion in arrest as judgment. State vs. Hopkins, 115 L. 786. Being a Justice of the Peace, or a constable or a deputy sheriff is not sufficient cause for challenge, nor that the juror is conducting a gambling house. State vs. Petit, 119 L. 1013.

The office of Jury Commissioner is ipso facto vacated when the incumbent takes another office, State, parish or municipal, and jurors selected by the body of the commission in which the designated person participated, are not competent to serve—this is not "an irregularity" within the meaning of Sec. 15 of Act 135, 1898. (State vs. Bain, 135 L. 776.) But objection to the trial jury which had been drawn by such a body, comes too late after trial and conviction. State vs. Powers, 136 L. 75.

**SELECTION OF JURY COMMISSION.**

**Sec. 3.** Be it further enacted, etc., That the several District Judges throughout the State, the Parish of Orleans excepted, shall select and appoint five discreet citizens and good men and true, able to read and write the English language who, with the clerk of the District Court, or in case of the inability of said clerk to act for any cause his chief deputy, as a member thereof ex-officio, shall constitute a Jury Commission for such parish and hold their office during the pleasure of the District Judge, provided that no person holding any office under the State or any parish or municipality therein shall be competent to hold the office of Jury Commissioner. The evidence of the appointment of said Jury Commissioners shall be the written order of the District Judge, which order shall be entered upon the minutes of the District Court; and before entering upon the discharge of their duties the persons thus appointed members of the Commission shall take an oath faithfully to discharge the duties imposed upon them by this Act. Three members of said commission, together with the clerk of the District Court, shall be a sufficient number to perform the duties imposed by this Act, provided all the members shall have been duly notified by the clerk of the District Court of the time and place designated by him for the meeting of said Commission, which notification shall appear from the certificate of the clerk in case of the absence of any member thereof.

**Note.** An indictment found by a grand jury selected by commissioners, one of whom had not qualified is properly quashed. *State vs. Flint et al.*, 52 L. 62. Not however where the motion to quash comes after verdict. (Sec. 18). *State vs. Stapp*, 52 L. 611. It is not error for the judge to set aside a venire drawn by a jury commissioner two of the members of which had not been sworn, and to accept the venire drawn by commissioners whom he appointed and who were properly sworn. *State vs. Kellogg*, 104 L. 582. The offices of Drainage Commissioner and Jury commissioner are incompatible, and one who qualifies for the latter vacates the former office. *State vs. Scott*, 110 L. 369. It is not necessary to mention the act in administering the oath to the jury commissioners. It is sufficient for them to take the oath required to be taken by all officers and to perform all the duties of jury commissioners for the Parish of St Mary, etc. *State vs. Stewart*, 117 L. 476. Oath of office, vacancy in Jury Commission. *State vs. McClendon*, 118 L. 792. The term of jury commissioner does not end with that of the Judge who appointed them. *State vs. Bradley*, 120 L. 248; *State vs. Jordan*, 130 L. 478. An order reading "It is ordered that a jury commissioner is hereby ordered composed of the following citizens, etc., given verbally in open court and entered on the minutes is sufficient to constitute the commission. *State vs. Marrioneaux*, 120 L. 453.

A democratic parish executive committeeman is not an officer within the meaning of Sec. 3 of Act 135 of 1898, and is thus competent to act as jury commissioner. *State vs. Ardoin*, 138 L. 1080. A jurycommissionerwho served as a delegate to the Constitutional Convention of 1913 did not thereby vacate his office as commissioner. *State vs. Doyle*, 138 L. 350. See note to Sec. 2.

**MEETINGS OF COMMISSION; SELECTION OF JURORS.**

**Sec. 4.** (As amended by Act 58, 1904, p. 136). Be it further enacted, etc., That within thirty (30) days after their appointment under the provisions of this Act, or sooner, if so ordered by the District Judge, which order shall be entered on the minutes of the Court, the members of said Commission or a majority of them, shall meet at the office of the clerk of the District Court and in the presence of two or more competent and disinterested witnesses of lawful age, competent to read and write the English language and residents of the parish, who shall be summoned by the clerk for that purpose, select from the persons qualified under this Act to serve as jurors for their respective parishes, the name of three hundred (300) competent, good and true men, a list of whom shall be made out by the clerk under the supervision of the Commission, and said witnesses and said list shall be kept complete and supplemented from time to time as hereinafter enacted. Each of the names on said list shall be written by the said clerk on a separate slip of paper, together with the number of the ward or place of residence of such person, and the slips of paper or ballots containing the names selected, except those containing the names of the persons chosen to serve as grand jurors as hereinafter provided, shall be placed in a box which shall be labeled: "General Venire Box," immediately after completing said general venire list, the Commission shall select therefrom the names of twenty (20) citizens possessing the qualifications prescribed by Section one (1) of this Act, to be taken from different

portions of the parish, as far as practicable, who shall be subject to duty as grand jurors during the term of six months after the grand jury is empanelled and until a succeeding grand jury shall have been empanelled.

The names of the persons so selected shall be written on slips of paper by the clerk in the presence of the Commissioners and they shall place the slips in an envelope, seal the same and endorse thereon the words, "List of Grand Jurors." Thereupon, the slips contained in the general venire box shall be well mixed, and one of the members of the Jury Commission, in the presence of the others and of the witnesses as above provided, shall draw therefrom one at a time, the names of thirty (30) persons to serve as petit jurors for the first or for the second week, as the Jury Commission may decide or the District Judge direct, of the next ensuing session of the Court, and if, in the judgment of the Commission a jury for another week may be required, or if the District Judge should so direct, they shall draw, in the same manner, thirty (30) additional names for service as jurors during the second or third week, as the case may be, of the session.

Provided that until such persons so drawn shall have actually served as jurors they may be required by the District Judge to perform jury duty during any week of the session thereafter ensuing.

The clerk and the Commission shall place the thirty (30) slips or ballots first drawn, in an envelope and seal and endorse on the same the words: "List of Jurors, No. 1," and the thirty (30) additional names, when drawn, shall be likewise enclosed and sealed, and the words: "List of Jurors, No. 2," endorsed thereon.

Said sealed envelope, with the one containing the list of grand jurors, shall be placed in a box, to be provided for that purpose, labeled "Jury Box," which shall be locked and sealed and placed in the custody of the clerk for use at the next session of the court, subject to the orders of the District Judge as hereinafter provided.

The said clerk shall keep a record of the drawings with a list of all the names in the order they are drawn and showing the week for which they are to serve; and when the drawing and the proces verbal is complete, shall deliver a copy of the same to the Sheriff of the parish, who shall without delay, proceed to summon all the persons on said list to attend upon the session of the court and serve for the week for which they are drawn and the clerk shall cause a copy of said list, including the list of the names of the persons selected to serve as grand jurors to be published in the official journal of the parish, if there be one, or in some other newspaper published in the parish.

If there be no official journal or other newspaper in said parish, he shall post a copy of such list on the door of the courthouse.

Provided, that in all the districts of the State, whether composed of one or more parishes, whenever the Judge shall deem proper, under the authority conferred by this Act, to direct the Commission to draw additional jurors for service during any session of the Court or during a continuous session, no publication of the list shall be necessary, and the jurors so drawn may be summoned without delay to try and determine the classes of criminal cases enumerated in Article 116 of the Constitution, as well as all the others where a jury may be required.

**Note.** The drawing of jury from a box containing less than three hundred names is a gross irregularity and those affected by it need not do more than allege it. The motion to quash should have been sustained. *State vs. Love*, 106 L. 659, but see *State vs. Batson*, 108 L. 479. It is not necessary to publish the lists of jurors drawn to serve at special sessions ordered by the Judge or during continuous regular sessions, when the original panel is exhausted. Publication is required only of the original lists drawn. *State vs. Winters*, 109 L. 3. *State vs. Thompson*, 116 L. 829. The presence of two or more competent witnesses is necessary at the meeting of the commissioners to select grand and petit jurors. *State vs. Teazell*, 114 L. 633. The failure of the clerk to write the names of the Grand Jurors on separate slips, or the selection by each of the commissioners of a number of jurors instead of the selection of all in conference, or the suggestion of some names as grand jurors by an outsider—the names however not being taken—are not grounds on which to set aside the general venire or quash the verdict in the absence of fraud or irreparable injury to the accused. *State vs. Sheppard*, 115 L. 942. As to number of jurors in box. *State vs. Johnson*, 116 L. 856; *State vs. Jones*, 118 L. 389. Term of Court—Publication of List. *State vs. Falddy*, 118 L. 468. The venire for a special term need not be

published. State vs. Armstrong, 118 L. 480. The failure of the proces verbal of the meeting of the jury commissioners to show that the clerk notified all the members is not fatal to the proceedings. State vs. Sturgeon, 127 L. 459 (the opinion considers the proces verbal and the questions connected with it) nor will the failure of the proces verbal to show that the names drawn to supplement the names in the box, were drawn in the presence of witnesses. State vs. Claxton, 129 L. 691, nor that the deputy clerk had acted in place of the clerk, where nothing prejudicial to the accused is shown, the presumption *omnia veta acta* will prevail. State vs. Reeves, 129 L. 716. State vs. Ashworth, 130 L. 590.

The failure of a commissioner to attend a meeting because the notice mailed to him, had been received by his wife, who neglected to give it to him until too late in the day, is not ground on which to quash the venire which had been drawn at the session. State vs. Woodward, 136 L. 291. It is not necessary to in the proces verbal of a jury drawing to recite the names of those stricken from the jury list for the several causes enumerated in the law. State vs. Gremillion, 137 L. 292.

A jury commissioner who has been appointed to succeed himself but has not qualified under the new appointment by taking the oath is nevertheless authorized to discharge the duties of his office. State vs. Thomas, 141 L. 561. Time for meeting of commissioners, notice, etc. State vs. Connor, 142 L. 583.

#### **VENIRE BOX—DELIVERY TO CLERK.**

Sec. 5. Be it further enacted, etc., That after the Jury Commission shall have selected the names of persons to serve as grand jurors and petit jurors, as prescribed in the preceding section, they shall lock and seal the general venire box and deliver the same to the clerk of the court, as the custodian thereof, and said box shall not be opened for any purpose except in the presence of a majority of the jury commission and two (2) disinterested witnesses possessing the qualifications required by this act.

#### **RECONSTRUCTING JURY LIST.**

Sec. 6. Be it further enacted, etc., That not less than twice in each year, or once in every six (6) months computing the time from the date of the first drawing by the jury commission, pursuant to the provisions of this act, the jury commission shall meet at the clerk's office, and after being furnished by the clerk of court with a list of the grand jurors and of those who have served as regular jurors since the previous drawing of the general venire, shall in the presence of said witnesses, examine the original venire list and strike therefrom the names of such as have so served, as well as the names of others on the list who are known to have died, removed from the parish, become exempt or disqualified to serve as jurors, since their names were entered thereon; and the names of those who have died, removed, become exempt or disqualified shall also be taken from the general venire box. The commission shall then supplement the original list and the ballots in the box, with the names of the same number of good and competent men from the qualified jurors of the parish, as have been taken from the box and erased from the list, so as to keep the number of names in the general venire box and on the jury list as the original standard of three hundred (300) contained therein. It shall be the duty of the clerk of the district court at each meeting of the commission to make a proces verbal of its acts in detail and record the same in a book to be provided for the purpose by the police jury, which shall at all times be open to the inspection of the public. Said proces verbal shall be signed by the clerk of court, the members of the commission present and the witnesses.

#### **PROVIDING FOR GRAND JURIES; METHOD OF SELECTING; APPOINTING FOREMAN, ETC.**

Sec. 7. (As amended by Act 155, 1906, p. 262). Be it further enacted, etc., That it shall be the duty of the jury commission, twice in each year, except in the parish of Cameron, to select the names of twenty (20) persons, in the manner provided in Section 4 of this Act, to serve as grand jurors until their successors are selected and qualified; and it shall be the duty of the district Judge in each parish to empanel a grand jury twice in each year, except in the parish of Cameron, in which at least one grand jury shall be empaneled in each year. The grand jury shall be composed of twelve (12) members, nine (9) of whom must concur to find an indictment, and nine (9) members present shall constitute a quorum for the transaction of business with full power and authority to investigate all matters and to find and report indictments and other matters, the same as if the twelve (12) were present and acting, provided that when less

than twelve (12) are present, at least nine (9) shall concur to find indictments or report on other matters. In the event the foreman should be absent, then the presiding judge shall appoint one (1) of the remaining eleven (11) as acting foreman, or foreman, pro tempore, who shall possess and exercise all the powers (whilst so acting) of the foreman. In case one or more members of the grand jury, during its terms of service, shall die or before disqualified for any case, and be set aside by the judge, the judge shall have the right to select from the names remaining on said list of twenty (20) the number necessary to complete the panel of said grand jury, provided that in case the original list of twenty (20) shall be exhausted before the panel is completed, or in the event of vacancies occurring thereafter, the district judge shall direct the commission to select from the jury list, and withdraw from the general venire box an additional number of names to complete said panel or fill such vacancies."

*Note.* The judge after empanelling the grand jury found two of them incompetent and that another had left the State permanently. Held that he had the authority to substitute others but in doing so the full oath, should be used, and not the abbreviated form used to swear in those qualifying at the same time the foreman is sworn in by the use of the full oath. The refusal to quash the indictment when the full oath was not administered to the new jurors, is reversible error. State vs. Turco 51 A 1086. Where the Grand Jury has been fully charged, it is not necessary to repeat the charge each time a new juror is added to fill a vacancy. State vs. Turco, 51 A. 1083. Where a sufficient number of jurors to complete the panel is present the accused cannot complain of the absence of some of the jurors. State vs. Voorhees, 115 L. 200. State vs. Jones, 118 L. 369. A grand jury selected from the general venire box, instead of being selected by the commissioners immediately after the completion of the general venire is competent to return a valid indictment. State vs. Sturgeon, 127 L. 459.

#### **DUTY OF THE GRAND JURY IN SELECTING A FOREMAN.**

**Sec. 8.** Be it further enacted, etc., That as soon as practicable after the selection by the commission of the list of persons to serve as grand jurors, under the provisions of this act and twice in each year, except in the Parish of Cameron, as hereinabove provided, pursuant to Article 117, of the Constitution, the district judge shall proceed to empanel a grand jury in their respective parishes. The judge shall select from the list of grand jurors a suitable person to act as foreman of the grand jury, and the sheriff, under direction of the court, shall draw from the envelope indorsed "List of Grand Jurors," the names therein until eleven answer, who, with said foreman, shall constitute the grand jury. The grand jurors so drawn shall perform the duties and have the same powers as are now prescribed by existing laws, and they shall hold their session at the seat of justice in each parish; they shall serve during six (6) months, and until a succeeding grand jury is empaneled. The names remaining in the envelope, after completing the panel of the grand jury, shall be replaced in the jury box for use in case any vacancy shall occur thereafter in the membership of that body.

#### **IN DISTRICTS COMPOSED OF MORE THAN ONE PARISH, THE JUDGE MAY EMPOUNL THE GRAND JURY IN ADVANCE OF THE TIME FIXED FOR THE NEXT SESSION OF THE COURT.**

**Sec. 9.** Be it further enacted, etc., That in districts composed of more than one parish, the judge may empanel the grand jury and deliver his charge in advance of the time fixed for the beginning of the next session of the court and in that event it shall be the duty of the grand jurors to proceed at once to a performance of their duties as prescribed by law. Any report or finding by the grand jury by indictment or otherwise, if the court be not in session, shall be delivered by the foreman to the clerk of the court who shall file the same, provided, the judge may instruct the grand jury in any case, in returning an indictment, to deliver the same to the clerk of the court enclosed in a sealed envelope, or to make their presentation in open court without mentioning orally the name of the person accused.

#### **HOW PETIT JURORS SHALL SERVE.**

**Sec. 10.** Be it further enacted, etc., That in districts composed of more than one parish, the jurors drawn for the first week of the session

shall constitute the petit jury for that week, and those drawn for the second shall serve for the time for which they are drawn, provided, that if the jury drawn for any week of the session do not serve as jurors during that week, they may be required to serve during a subsequent week of any session of the court until another venire shall have been drawn by the commission, unless sooner discharged by the district judge; provided further, if a jury be empaneled in any case, and the trial commenced and the week for which the jury is drawn expires, such jurors shall continue to serve in the cause in which they are empaneled, until a verdict is rendered or they are discharged by the court.

**Note.** The prevalence of small pox prevented the trial of criminal cases during May, and the judge ordered the jury drawn for that month, to reassemble in June. Held, that under the circumstance, the court had the power to do this. *State vs. Ayles*, 120 L. 661.

#### SELECTION OF JURORS.

Sec. 11. (As amended by Act 113, 1918). Be it further enacted, etc., That it shall be the duty of the Jury Commission, at such other times as the court may order, to select one hundred tales jurors, good men and true, and place their names in a box to be known as the Tales Jury Box, securely seal the same and deliver it to the District Clerk of the parish, who shall keep the same so sealed and unopened and in his possession until ordered by the court to produce the same. If on the trial of any civil or criminal case the regular venire is exhausted, or it appears that it will be exhausted, before the selection of a jury therein, the Court at its discretion may instruct the Clerk to open such Tales Jury Box and draw therefrom such number of tales jurors as in its judgment may be necessary to serve on said case, and it shall be the duty of the Sheriff to forthwith summons such tales jurors to serve in said case, and it shall be the duty of such tales jurors so summoned to report immediately for jury service in said court in said case, provided, that the names of the tales jurors drawn from such Tales Jury Box, and who do not serve, shall not be returned to said Tales Jury Box by the District Clerk, but the slips upon which said names are written shall be destroyed in the presence of the Court by the District Clerk; and provided that the Jury Commission may at any time, without the order of the Court, supplement the names of tales jurors in said Tales Jury Box, until the full complement of one hundred is reached. All tales jurors shall possess the same qualifications as provided for regular jurors, but no publication of the tales jury list shall be necessary, but a copy of the same, as drawn by the Clerk, shall be furnished the defense before the trial shall proceed. The Jury Commission shall not make known in any manner the names placed in said Tales Jury Box, and should any of them do so he shall be held in contempt of court and punished accordingly, but nothing herein contained shall be so construed as to limit the right of the judge in criminal cases, by and with the consent of the District Attorney and the defendant, or his counsel, after the list of regular jurors is exhausted, after the trial has commenced, to order the summoning of talesmen from among the bystanders or person in proximity to the Court House, or from any portion of the parish, remote from the scene of the crime, which the judge may designate.

**Note.** The Judge properly ordered the talesmen selected from a locality remote from the scene of the crime. The attempted showing of antagonism between the two sections was not convincing. *State vs. Kellogg*, 104 L. 585; *State vs. Laborde*, 120 L. 136. The judge has authority to direct the sheriff to summon talesmen in anticipation of the exhaustion of the regular panel. *State vs. Watkins*, 106 L. 380; *State vs. Manuel*, 133 L. 591. Publication of lists of talesmen is not required. *State vs. Winters*, 109 L. 3. Jurors ordered drawn in anticipation of the probable exhaustion of the regular panel—are talesmen. It is not necessary to put their names in the box, they may be selected direct from the list. *State vs. Bordelon*, 113 L. 690. The court may order talesmen to stand and when they are not summoned in the manner directed. *State vs. Thompson*, 116 L. 829. On selection of talismen under the section as amended by Act 182, 1914, in *State vs. Anderson*, 136 L. 261. (This section has been amended twice since then—i. e. by act 123, 1916 and 113, 1918). *State vs. Evans*, 137 L. 379. *State vs. Thompson et al.*, 137 L. 547. *State vs. Gallot*, 138 L. 224. *State vs. Dorsey*, 138 L. 410. *State vs. Ashworth*, 139 L. 590. *Bradley vs. Shopt*, etc., Co., 139 L. 1029. (The last cases cited, were all decided before the amendment of 1918.)

**DISTRICT JUDGE TO ENFROCE ATTENDANCE.**

**Sec. 12.** (As amended by Act 113, 1912, p. 134). Be it further enacted, etc., That it shall be the duty of every person selected and summoned to attend as a juror or talesman punctually and for the time for which he is so selected; and the District Judge shall have the right to enforce said attendance by issuing a capias and also punishment for non-attendance by imposing a fine on the delinquent juror of not more than fifty dollars (\$50) or imprisonment in the parish jail for not more than three (3) days, or both, in his discretion. The jurors who attend and serve shall be entitled to demand and receive from the parish treasury two dollars and fifty cents (\$2.50) for each day's attendance of court, and five cents (5c) for each mile necessarily traveled in going to and returning from the court house, but only one charge shall be made for mileage each way. Grand jurors shall be entitled to the same compensation and mileage, and the several clerks of the district courts, shall, upon the demand of each of such jurors, at the close of his term of service, issue to him a certificate of attendance, countersigned by the district judge, for the amount to which he may be entitled; provided, the district judge may direct the payment of the accrued mileage and per diem of grand jurors at any time during their term and service.

**Note.** In an expropriation suit, the plaintiff cannot recover from the defendant, nor the defendant from the plaintiff, the per diem and mileage of the jurors in the case; nor can the party be charged with them. Opelousas, etc., Ry Co. vs. St. Landry Cotton Oil Co., 121 L. 806. Claussen vs. Cumberland T. & T. Co., 130 L. 143.

**DEPOSIT OF JURY FEE IN CIVIL CASES.**

**Sec. 13.** Be it further enacted, etc., That in all civil cases in which a jury is prayed for and allowed, said jury to be composed of twelve (12) members, nine (9) of whom concurring may render a verdict, it shall be the duty of the party praying for the jury to deposit with the clerk of the court twelve dollars (\$12) as jury costs and to give bond in favor of the parish for such amount as may be determined by the judge to cover the additional cost of the jury, with the right to have the same taxed as costs against the party cast in the suit, and no jury shall be ordered in any civil case unless the said deposit is made and the bond given; provided, that when the judge, ex-officio shall order a jury in a civil case, the plaintiff shall advance and pay to the clerk twelve dollars (\$12.00) for jury costs, which shall finally be taxed against the party cast in the suit. In case the plaintiff fails to advance the costs so ordered the cause shall be continued for thirty (30) days in districts composed of one parish and in districts composed of more than one parish, to the next session of the court, and should plaintiff fail to advance the jury costs within six (6) months from the time the petition was filed, his suit shall be dismissed, as in case of non suit. In districts composed of one parish, the clerk shall, at the end of every month during which sessions of court are held and in districts composed of more than one parish, at the close of each session, pay over to the parish treasurer the total civil jury tax which may have accrued under the provisions of this section; this fund shall be expended for no other purpose than that for which it was deposited; provided, that nothing herein shall be so construed as to require payment by any party of such jury costs more than once; provided further, that when a trial by jury in a civil case is prayed for and allowed or when one is ordered ex-officio by the judge, he shall on application of either party to said cause, in case there be no venire of jurors from which to select a jury, order the commission to draw such number of jurors as he may deem necessary to try and determine said cause, said drawing to be made in accordance with the forms prescribed by Section 4, of this act, except as to publication. In the trial of all civil jury cases each party, plaintiff and defendant, shall be entitled to six (6) peremptory challenges, and no more.

**Note.** In a civil case to be tried by a jury, each side is entitled to six challenges. Schwing vs. Dunlap, 130 L. 499.

**WHEN SPECIAL DRAWING NOT REQUIRED.**

**Sec. 14.** Be it further enacted, etc., That for the trial of all criminal cases to be tried by jury in the manner prescribed by Article 116, of the

Constitution, no special drawings of juries shall be necessary for particular cases, but juries for the trial of all criminal cases, whether to be composed of five (5) or twelve (12) in number, shall be drawn as hereinabove provided, the judge being fully vested with power and authority to direct the commission to draw additional juries for service whenever in his opinion the public interest may require it, which order shall always be entered on the minutes of the court. In the trial of cases in which the punishment may be at hard labor, by a jury of five (5), the accused shall be entitled to six (6) peremptory challenges, and the State to three (3); in cases in which the punishment is necessarily at hard labor and tried by a jury of twelve (12), the accused shall be entitled to twelve (12) peremptory challenges and the State to six (6) and in cases in which the punishment may be capital and tried by a jury of twelve (12), the accused shall be entitled to twelve (12) peremptory challenges and the State to six (6). The State and the accused may, in all cases, challenge any number of jurors for good and sufficient cause.

*Note.* Where there are two defendants and the punishment at hard labor, the State is entitled to twelve peremptory challenges and each of the defendants to twelve. *State vs. Cason et al.*, 118 La. 349. R. S. Sec. 997, 998 were not repealed by implication by Act 24 E. S. 1878, and hence were subject to amendment. Sec. 997 was amended by Act 36, 1880, so as to give the State six peremptory challenges for each defendant in total. The amended and reenacted section has not been abrogated or repealed by Act 135, 1898. *State vs. Gauthereaux*, 134 L. 690.

#### WHAT NOT CAUSE FOR CHALLENGE.

**Sec. 15.** Be it further enacted, etc., That it shall not be sufficient cause to challenge the general venire elected for any session of the court or portion thereof or for service at any time in any parish or district of this State, or set aside the venire, because some of the jurors on the list are not qualified to act, nor because of any other defect or irregularity in the manner of selecting the jury as above provided; and to such defect or irregularity in the selection thereof or the summoning of the jury, shall be sufficient cause, if it shall not appear that some fraud has been practiced or some great wrong committed in the selection and the summoning of the jury that would work irreparable injury; provided, that it shall be good ground to challenge, for cause, any juror who is not qualified to act under the provisions of this act.

*Note.* The jury was drawn for the first and last week of the term namely the third of July, when apparently it should have been drawn for the week beginning on the sixteenth. Held not a defect for which the venire would be set aside, in the absence of fraud or a showing of great injury. *State vs. Thompson*, 104 L. 187. That the names on the slips in the box were written by the clerk and the commissioners, instead the clerk alone is not an error that works irreparable injury nor that the name of one juror was duplicated, or that the number of names fell short by one from the number presented by statute. The venire will not be quashed for such a cause. *State vs. Batson*, 108 L. 474. The sheriff took the slips from the envelope containing the names of the Grand Jurors and placed them in an open box, from which he drew the Grand Jurors, held a violation of law, which Sec 15 does not permit. *State vs. Leveley*, 119 L. 368. That the jury commissioners did not repair to the office of the Clerk of Court and there supplement the jury list is not ground to quash the venire. *State vs. Bradley*, 120 L. 258.

#### WHEN OBJECTIONS MUST BE URGED.

**Sec. 16.** Be it further enacted, etc., That all objections to the manner of selecting or drawing the jury or to any defect or irregularity that can be pleaded against any array or venire must be urged before entering on the trial of the case; otherwise, all such objections shall be considered as waived and shall not afterward be urged or heard.

#### REPEALING CLAUSE.

**Sec. 17.** Be it further enacted, etc., That Act No. 99, of the General Assembly of 1896, entitled, "An act relative to juries in and for the State of Louisiana, the Parish of Orleans excepted," etc., approved July 9th, 1896, and all laws and parts of laws in conflict with the provisions of this act, be and the same are hereby repealed; provided, that this act shall not interfere with juries drawn under existing laws at the time this act goes into effect.

*Note.* This act has not repealed the provisions of the Revised Statutes (Sec. 1481) nor the articles of the Civil Code relative to juries of freeholders in expropria-

tion cases. Cumberland T. & T Co. vs. Morgan L. & T. R. & S. S. Co., 142 L 287. The act does not require lists of jurors to be published or posted for thirty days or any other particular time. State vs. Voorhees, 115 L 200. A jury commissioner cannot be heard to contradict or impeach the return of the proces verbal made by him under the sanctity of his official oath State vs. Johnson, 116 L 856. There is nothing in the law which requires a grand jury engaged in investigating crime, to obtain permission of the court to visit the scene of the crime. It may meet at any place within the parish other than the court house. State vs. Johnson, 116 L 856.

R. S. Sec. 1426 has been abrogated by this act, and a jury for the trial of a contested election matter, may be drawn by the jury commission under Act 135, 1898. Dial vs. Hodge, 123 L 388.

The act is not unconstitutional as giving the jury commissioners discriminatory powers, and it does not violate the fourteenth and fifteenth amendments to the Constitution of the United States. State vs. Connor, 142 L 631. State vs. Jackson, 142 L 636.

## WHEN GRAND JURIES (ORLEANS EXCEPTED) SHALL BE EMPANELED.

**Act 23 of 1908, p. 23.**

### TITLE.

AN ACT to authorize judges of District Courts, the Parish of Orleans excepted, to fix the time at which Grand Juries, pursuant to Article 117 of the Constitution, shall be empaneled.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Judges of the District Courts, the parish of Orleans excepted, are hereby authorized and directed to fix the times at which Grand Juries shall be empaneled in the parishes composing their respective districts, provided that pursuant to Article 117 of the Constitution there shall be empaneled a Grand Jury in each parish twice a year to remain in office until a succeeding Grand Jury is empaneled; and provided further that no Grand Jury shall be empaneled for more than eight months, nor less than four months; except in the parish of Cameron, in which at least one Grand Jury shall be empaneled in each year.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

Note. General rules for the guidance of jury commissioners in the selection of jurors. What is competency, etc. State vs. Turner et al. 133 L 555.

## EXEMPTION FROM JURY DUTY.

**Act 18 of 1906, p. 26.**

### TITLE.

AN ACT to provide for exemption from jury duty of all bona fide commercial travelers, and to provide what persons shall be considered as bona fide commercial travelers.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all bona fide commercial travelers residing in the State of Louisiana, be and they are hereby exempt from service as regular jurors, and that the exemption above provided for shall be personal to such persons, and when they do not themselves claim the exemption, it shall not be sufficient cause for challenging any person exempt under the provisions of this act.

Sec. 2. Be it further enacted, etc., That only such persons as are actually engaged in traveling, through this State or any other, either for themselves or in the interest of any wholesale dealer, commission merchant or any manufacturer of articles of commerce, shall be considered as bona fide commercial travelers and entitled to the exemption from jury service under the provisions of this act.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect from and after its passage.

Note. See Sec. 1, Act 136, 1898, printed at p. 1067.

**COMPENSATION OF JURY COMMISSIONERS.****Act 11 of 1902, p. 19.****TITLE.****AN ACT to fix the compensation for the Jury Commissioners throughout the State, the Parish of Orleans excepted.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Jury Commissioners throughout the State of Louisiana, the Parish of Orleans excepted, shall receive for their services as such from the Parish Treasury the sum of three dollars (\$3.00) per day when in actual attendance upon the duties of the office and five cents (5c) per mile for every mile traveled in coming to and from the courthouse.

Sec. 2. Be it further enacted, etc., That all laws contrary to or inconsistent with the provisions of this act be and the same are hereby repealed.

**NEW TRIALS.****Act 247 of 1908, p. 368.****TITLE.****AN ACT to regulate new trials in civil cases and establish the method of procedure therein.****METHOD OF PROCEDURE AT NEW TRIALS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all civil cases whenever the trial judge shall be of opinion that the verdict of a jury or judgment of the court contains any error prejudicial to a party, he may at any time within three days, on motion of the party complaining, set aside such verdict or judgment and allow a new trial in the cause. On such new trial it shall not be necessary to re-summon the witnesses or hear them anew, if their testimony has once been reduced to writing, but all such testimony and all evidence offered on the former trial shall be considered as already in evidence, provided the same be filed as part of the record; reserving however to any party the right to call new witnesses or offer additional evidence, and with the permission of the court to recall any witness for further examination or cross examination as the case may be. Provided that nothing shall be construed to conflict with the provisions of Act No. 51 of 1908.

**NUMBER OF TRIALS; EFFECT OF VERDICT.****Act 51 of 1908, p. 31.****TITLE.****AN ACT in reference to trial by jury in civil cases.****NO MORE THAN TWO JURY TRIALS ALLOWED IN CIVIL CASES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in any case where a jury has been prayed for by either party, and where the case has been tried twice by a jury without a verdict being reached, no further trial by jury shall be had, but the case shall be tried by the judge alone, the same as if no jury had been prayed for.

**THIRD VERDICT SHALL NOT BE SET ASIDE.**

Sec. 2. Be it further enacted, etc., That no judge shall have the right to set aside the verdict of a jury in the same case more than twice, but should there be three jury trials of the same case, the third verdict shall not be disturbed by the trial judge, who shall render judgment thereon without entertaining an application for a new trial.

Sec. 3. Be it further enacted, etc., That this law shall not affect cases pending at the time of its going into effect.

[R. S., Sec. 2136.] Selection of foreman of Grand Jury.  
Superseded by Act 135, 1898, Sec. 8, printed *supra* this title.

[**Foreman of Grand Jury Authorized to Administer Oaths.**]

[R. S., Sec. 2137.] The foreman of the Grand Juries of this State may administer the oath required by law, to all witnesses brought before them during their respective sessions.

[**Power of Grand Jury to Adjourn.**]

[R. S., Sec. 2138.] Grand Juries may adjourn for any time not exceeding three days, without leave of the Court, but for a longer time than three days the leave of the Court must first be had.

[**Inspection of Prisons.**]

[R. S., Sec. 2139.] Every Grand Jury is required to inspect the prisons within their respective districts and make report to the Judge of said court, of the manner in which the prisoners are treated, and if any of the Sheriffs, Jailors, prison keepers, or any of their deputies, should be presented by them for not having complied with the laws regulating the treatment of prisoners, he or they shall be fined in a sum not exceeding two hundred dollars.

*Note.* The sessions of the Grand Jury may be held anywhere within the Parish, and it should act not only on evidence submitted to it; but also on facts within the knowledge of its members. It does not need the permission of the court to investigate crime, it must do so of its own initiative, and determine for itself the character of the evidence the sufficiency of facts, etc., for the findings. *State vs. Johnson*, 116 L. 855.

[**Failure to Perform Duties; Penalty.**]

[R. S., Sec. 2140.] Any grand juror at any time of court when a grand jury is empaneled, who shall fail to inform the grand jury of any violation of the criminal laws of this State, or of any crime committed within the parish for which he is empaneled as a grand juror, since the sitting of the last preceding grand jury in that parish, which may have come to his personal knowledge, or of which he may have been informed, upon due conviction thereof shall, if it be an offense not punishable in the penitentiary, of which he has not given information, be fined in a sum of not less than fifty nor more than five hundred dollars, and if it be an offense which may be punished by death or imprisonment in the penitentiary, he shall be punished by imprisonment in the penitentiary at hard labor for not less than one nor more than five years.

*Note.* Where the conduct of the grand jury in finding an indictment is attacked, evidence to support the attack must come from others than its members. The failure of the clerk to issue and the sheriff to serve subpoenas on witnesses is not sufficient to overcome the presumption that the Grand Jury had sufficient evidence before it to support the bill found. *State vs. Britton*, 131 L. 879. See note to R. S. Sec. 2139.

[**Grand Jurors as Witnesses.**]

[R. S., Sec. 2141.] In order to prosecute the offense prescribed in the first section of this act, or to defend the charge, any member of the Grand Jury shall be a competent witness to

testify either before the grand jury or on the examination or trial of the case.

[**Special Charge to Grand Jury.**]

[R. S., Sec. 2142.] The several judges of the courts in this State before whom criminal cases are tried shall give this act specially in charge to each grand jury empaneled before them.

*Note.* For juries in Parish of Orleans see Act 98, 1880, printed at p. 1052.

[R. S., Secs. 2143 to 2151.] Who bound to serve on jury; jury, how drawn; composition of grand and petit juries, etc. The whole subject is governed by legislation enacted since adoption of Revised Statutes noted under this title.

[**Fees of Jurors in Civil Cases.**]

[R. S., Sec. 2152.] Those serving in the other courts, sitting in the city of New Orleans, shall be entitled to a compensation of one dollar each for every case in which they find a verdict, to be charged amongst the costs, which shall be advanced by the party when he files his petition or answer, praying for a trial by jury, otherwise said prayer shall be disregarded, and the case tried by the court.

*Note.* See Sec. 13, Act 136, 1898, printed at p. 1074.

## **ABOLISHING FEES OF JURORS IN NEW ORLEANS.**

**Act 69 of 1874, p. 117.**

**TITLE.**

**AN ACT** to abolish fees of jurors in the city of New Orleans, in Criminal and Coroner's cases.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That from and after the passage of this act no fee shall be paid to grand or petit jurors in any criminal court in the parish or Orleans, nor to any juror on any inquest before a coroner in said parish.

Sec. 2. Be it further enacted, etc., That this act shall take effect from and after its passage.

## **FEES OF JURORS AND WITNESSES OUTSIDE ORLEANS.**

**Act 37 of 1890, p. 31.**

**TITLE.**

**AN ACT** to provide for the manner in which the fees of jurors and witnesses throughout the State, the parish of Orleans excepted, are to be paid and collected.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the clerks of the district courts of the State, the parish of Orleans excepted, to issue certificates of attendance on the court in all cases, free of charge to the jurors and witnesses.

Sec. 2. Be it further enacted, etc., That the police juries of the various parishes of the State shall be required to provide the clerks of the district courts with suitable blanks to be used in making out certificates of attendance for jurors and witnesses; and said police juries shall provide for the payment of the fees of the clerks now allowed by law, for the issuing of said certificates.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in

conflict with this act are hereby repealed, and that this act shall take effect from and after its promulgation.

*Note.* In so far as this act makes the parishes responsible for the fee of the clerk in issuing certificates for the payment of jurors, it is unconstitutional (Art. 122), *Lemoine vs. Police Jury*, 137 L. 332.

**[R. S., Sec. 2153.]** Special jury of experts in courts of First Judicial District (Parish of Orleans). Superseded by Act 98, 1880, printed at p. 1052.

**[R. S., Sec. 2154.]** Empaneling of Grand Jury for Parish of Orleans in First District Court. Court is not in existence under present judiciary system. Act 98, 1880, Sec. 3, printed at p. 1052, provides for Grand Jury for parish.

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## LABOR LAWS.

### BUREAU OF LABOR AND STATISTICS, COMMISSIONER, ETC.

**Act 155 of 1908, p. 210.**

#### TITLE .

AN ACT to create the Bureau of Labor and Industrial Statistics of the State of Louisiana, to provide for the appointment of a commissioner to be known as Commissioner of Labor and Industrial Statistics of Louisiana, prescribing his powers and duties, fixing his compensation and authorizing him to appoint deputies and to define their duties, and providing a penalty for violation thereof.

#### CREATING COMMISSIONER OF LABOR AND INDUSTRIAL STATISTICS; HIS APPOINTMENT, ETC.

Section 1. (As amended by Act 186, 1914, p. 351), Be it enacted by the General Assembly of the State of Louisiana, That the Governor shall, by and with the advice and consent of the Senate, appoint some suitable person who shall be designated "Commissioner of Labor" and said Commissioner of Labor shall appoint with the approval of the Governor two suitable persons who shall be designated "Assistant Commissioners of Labor," said assistant commissioners shall be residents of different sections of the State from each other and from the Commissioner of Labor. The headquarters of such Commissioner and Assistant Commissioners shall be fixed at such place as the Governor shall designate and they shall hold their offices for a term of four (4) years. The Assistant Commissioners of Labor shall perform their duties under the direction and orders of the Commissioner of Labor.

#### DUTIES OF COMMISSIONER AND ASSISTANTS.

Sec. 2. (As amended by Act 186, 1914, p. 351), Be it further enacted, etc., That the duties of said Commissioner and said Assistant Commissioners shall be to visit and inspect manufacturing establishments, workshops, mills, mercantile establishments, factories and other places where industrial work is being done for the purpose of enforcing the laws regulating or dealing with the conditions of employment of labor of any kind, and to prosecute all persons, firms, associations or corporations violating the labor laws of the State. It shall be the duty of such Commissioner and Assistant Commissioners to collect, assort, systematize, and present annual reports to the Governor to be by him biennially transmitted to the General Assembly, within ten days after the convening thereof, statistical

data relating to all departments of labor in the State, especially such data as relate to the commercial, industrial, social, educational and sanitary conditions of the laboring people and to the permanent prosperity of the productive industries of the State. It shall also be the duty of said Commissioner and Assistant Commissioners and they shall have authority to inquire into the causes of strikes, lockouts, or other disturbances of the relation of employers and employees and to report to the Governor at as early a date as possible thereafter the result of such inquiry.

**POWERS AND DUTIES OF COMMISSIONER, ETC.**

Sec. 3. (As amended by Act 186, 1914, p. 351). Be it further enacted, etc., That the Commissioner or Assistant Commissioners shall have power to take and preserve evidence, examine witnesses under oath and administer the same, and in the discharge of his duties may enter any public institution of the State, and at reasonable hours any factory, mill, workshop, mercantile establishment or other places where labor may be employed. In the City of New Orleans the Mayor shall appoint a factory inspector who may be either male or female. The Commissioner and each Assistant Commissioner shall have power to investigate all cases where violations of the laws pertaining to the conditions or employment of labor is complained of; and it is hereby made the duty of said Commissioner and Assistant Commissioners to order the criminal prosecution in any competent court of any person, firm, association or corporation, acting in violation of any laws of this State, regulating the conditions of the employment of labor.

**MISDEMEANOR TO INTERFERE WITH DUTIES OF COMMISSIONER.**

Sec. 5. (As amended by Act 186, 1914, p. 351). Be it further enacted, etc., That any person who shall wilfully impede or prevent the Commissioner or Assistant Commissioners in the full and free performance of his or their duties shall be deemed guilty of a misdemeanor and upon conviction of the same shall be fined not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) or be imprisoned not less than five (5) or more than twenty-five (25) days in the parish jail, or both at the discretion of the court.

**SALARIES.**

Sec. 6. (As amended by Act 232, 1918.) Be it further enacted, etc., That the Commissioner shall receive a salary of two thousand four hundred dollars (\$2,400.00) per annum and each Assistant Commissioner a salary of fifteen hundred dollars (\$1,500.00) per annum. The Commissioner shall employ a secretary at a salary of one thousand dollars (\$1,000.00) per annum. The Commissioner and Assistant Commissioners shall be allowed the sum of five hundred dollars (\$500.00) per annum for office expenses and a sum not to exceed two thousand dollars, (\$2,000.00) per annum for traveling expenses and all other necessary expenses incurred in the performance of their duties. All of said amounts for salaries and expenses shall be payable out of the general fund upon the warrant of the commissioner.

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are repealed.

Sec. 8. (As amended by Act 186, 1914, p. 351). Be it further enacted, etc., That this Act shall take effect from the date of its promulgation.

**REPEALING CLAUSE.**

Sec. 9. (See note below). Be it further enacted, etc., That all laws or parts of laws in conflict with or inconsistent with the provisions of this Act are hereby repealed.

Sec. 9. Be it further enacted, etc., That nothing in this Act shall be construed as relating to sugar industries or sugar mills outside of any city or town in this State.

Note. The first Section 9, as here printed, is part of Act 186, 1914, p. 351, which amended Act 156, 1908; but neither the title nor the section of the Act of 1914, re-citing the parts of 1908 which were to be amended, mention any Section 9. The

Section 9 of the Act of 1914 is therefore an independent section, not an amendment of the Act of 1908, and the validity must be judged from that standpoint. Section 9 of the original act is also given. The question is, however, presented whether the Section 9 of the Act of 1914 does not repeal the Section 9 of the Act of 1908. Act 70, 1900, p. 129, is repealed in fact, though not in terms, by this act.

## **FACTORY INSPECTOR; EMPLOYMENT OF CHILDREN, ETC.**

### **Act 301 of 1908, p. 453.**

**TITLE.** (As amended by Act 177, 1916, p. 407).

AN ACT to regulate the employment of children, young persons and women in this State; to provide for the issuance of age certificates; to provide necessary regulations for sanitary conditions and mechanical devices in mills, factories, mines and packing houses, hotels or restaurants, manufacturing establishments, work shops, laundries, millinery or dress making, or mercantile establishments, or in any theatre or concert hall, or in or about any place of amusement where intoxicating liquors are made or sold, or in any bowling alley, bootblacking establishment, freight or passenger elevators, or in the transmission or distribution of messages, either telegraph or telephone, or any other messages, or merchandise, or in any other occupation, not herein enumerated which may be deemed unhealthful or dangerous, and to provide for the appointment of a factory inspector in the City of New Orleans by the mayor, with the consent of the city council, and fixing penalties for the violation of this act.

### **PROHIBITING THE EMPLOYMENT OF CHILDREN UNDER FOURTEEN YEARS IN FACTORIES, ETC.; PENALTY.**

Section 1. (As amended by Act 133, 1914, p. 248), Be it enacted by the General Assembly of the State of Louisiana, That from and after the passage of this act it shall be unlawful for a person, agent, firm, company, co-partnership or corporation to require or permit, or suffer or employ any child under the age of 14 years to labor or work in any mill, factory, mine, packing house, manufacturing establishment, work-shop, laundry, millinery or dressmaking stores or mercantile establishments, or hotel, or restaurants or in any theatre or concert hall or in or about any place of amusement where intoxicating liquors are made or sold or in any bowling-alley, boot-blacking establishment, freight or passenger elevator or in the transmission or distribution of messages, whether telegraph or telephone or any other messages, or merchandise or in any other occupation whatsoever, provided that the provisions of this Act shall not affect Act 176 of 1908.

The provisions of this act shall not apply to agricultural pursuits. Any violations of this act shall be punishable by a fine of not less than \$25.00 or more than \$50.00 or by imprisonment in the parish jail (parish prison in New Orleans) for not less than 10 days or more than 6 months or both at the discretion of the court.

Note. The accused was found guilty of employing a child under fourteen to appear on the stage as a performer. Held that the words "where intoxicating liquors are made and sold" do not qualify the word "theater" and the word "work" comprehends acting on the stage. The act is not unconstitutional. *State vs. Rose*, 126 L. 482. (See Act 184, 1912, printed at p. 1088.)

### **AGE CERTIFICATES, BY WHOM ISSUED.**

Sec. 2. Be it further enacted, etc., That the State Factory Inspector or any Factory Inspector appointed by the Mayor of the City of New Orleans with the consent of the Council acting in conjunction with the Board of Health and School Board in the Parish shall have full power to issue an age certificate to minors over 14 years and under 16 years of age seeking employment in any part of this State. Provided, however, that no person authorized to issue an age certificate as hereafter provided shall have authority to approve such certificate for any child then in or about to enter his own establishment, or the employment of a firm or corporation of which he is a member, officer or employee.

**RECORD TO BE KEPT; PENALTY.**

The person approving these age certificates shall have authority to administer the oath provided therein, but no fee shall be charged therefor. Every person issuing or approving these age certificates shall keep a record of the same, and shall forward to the office of the State Factory Inspector a duplicate of each certificate issued or approved. All such age certificates shall be subject to review by the State or other Factory Inspector, and may by him or her be canceled if he or she finds that such certificates may have been obtained through fraud, misrepresentation or falsification of facts, and whoever shall obtain or assist in obtaining such age certificates by fraud, misrepresentation or falsification of facts, is hereby declared to be guilty of a misdemeanor, and on conviction before a court of competent jurisdiction shall be fined less than \$10 or more than \$50. In such cases the Factory Inspector shall give written notice to the employer, who shall at once cause the minor affected to be dismissed from employment. Printed forms of the age certificates hereinafter provided shall be furnished by the State Factory Inspector upon request made by persons authorized to issue them. An age certificate shall not be approved unless satisfactory evidence is furnished by a certificate of birth or baptism of such child, the register of birth of such child with an officer of a city or town designated to keep a register of births, or by the records of the public or parochial school attended by such child, that such child is of the age stated in the certificate, or by a certified copy of their passport from the Commissioner of Immigration; provided, that in cases where the above proof is not obtainable, the parent, guardian or custodian of the child shall make an oath before the State Factory Inspector, or any Factory Inspector, or before a Juvenile or District Court as to the age of such child, and the State Factory Inspector, or any Factory Inspector, or the Court, may issue to such child an age certificate as sworn to. A duplicate of such age certificate shall be filled out and shall be forwarded to the office of the State Factory Inspector. The age certificate shall be printed and shall be filled out, signed and held or surrendered in the following forms:

**CONTENTS OF SAME.**

**AGE CERTIFICATES.**

This certifies that I am (father, mother, guardian or custodian) of (name of minor) and that (he or she) was born at (name of town or city) in the (name of county if known) and (State or county of ..... ) on the (date of birth and year of birth) and is now (number of years and months) old.

(Signature of parent, guardian or custodian.)  
(City or town and date.)

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed, is true to the best of (his or her) knowledge. I hereby approve the foregoing certificate of (name of child), height, (feet and inches), weight, complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified.

Owner of Certificate. This certificate belongs to (name of child and in whose behalf it is drawn), and is to be surrendered to (him or her) whenever (he or she) leaves the service of the corporation or employer holding the same, but if not claimed by said child within thirty days from such time, it shall be returned to the office of the State Factory Inspector for cancellation.

(Signature of person authorized to approve and sign with official character of authority.)

(Town or city and date.)

Such certificate shall be issued without charge. The provisions of this section shall not become operative until 60 days after the promulgation of this Act.

Note. It is negligence to employ a minor without requiring the certificate from the Factory Inspector. *Dalberni vs. N. O. Canning Co.*, 139 L. 49; *Alexander vs. Standard Oil Co.*, 140 L. 54, but the act does not make the employer the insurer of the minor against accidents caused by his own negligence. *Alexander vs. Standard*

Oil Co., 140 L. 54. Contributory negligence may be pleaded and proved by the defendant. Flores vs. Steeg Pub Co., 142 L. 1068.

**AUTHORITY GIVEN FACTORY INSPECTORS TO ENFORCE THIS ACT.**

Sec. 3. Be it further enacted, etc., That it shall be the duty of the Commissioner of Labor and Industrial Statistics and his deputies, and such Factory Inspectors as will be appointed in incorporated cities and towns by the Mayor, with the consent of the Council, and in parishes, by the Police Jury, and they are hereby authorized and empowered to visit and inspect, at all reasonable times and as often as possible all places enumerated in Section 1 of this Act, and to file complaint in any Court of competent jurisdiction to enforce the provisions of this Act, and it shall be the duty of the Parish or District Attorney to appear and prosecute all complaints so filed.

**HOURS OF DAY'S LABOR FIXED AT TEN HOURS; HOLIDAYS EXCEPTED FOR STORES; PENALTY.**

Sec. 4. (As amended by Act 177, 1916, p. 407). Be it further enacted, etc., That no child or person under the age of 18 years, and no woman shall be employed in any of the places and industries enumerated in Section 1 of this Act for a longer period than ten hours per day of 60 hours per week. There shall be one hour allowed each day for dinner, but such dinner time shall not be included as part of the working hours of the day. In case two-thirds of the employees so desire, time for dinner may be reduced at their request to not less than thirty minutes. Provided that this shall not apply to persons working in stores and mercantile establishments on Saturday nights in which more than five persons are employed. Any violation of this provision shall be punishable by a fine of not less than \$25 or more than \$50, or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than six months, or both, in the discretion of the Court.

**HOURS OF BEGINNING AND QUITTING WORK, 6 A. M. and 7 P. M.; PENALTY.**

Sec. 5. (As amended by Act 177, 1916, p. 407). Be it further enacted, etc., That no boy under the age of 16 years and no girl under the age of 18 years shall be employed at any work before the hour of 6 in the morning or after the hour of 7 at night. Provided that this shall not apply to persons working in stores and mercantile establishments on Saturday nights in which more than five persons are employed. Any violation of this proviso shall be punishable by a fine of not less than \$25 nor more than \$100, or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than six months, or both, in the discretion of the Court.

**LIST OF EMPLOYEES UNDER EIGHTEEN TO BE POSTED.**

Sec. 6. Be it further enacted, etc., That every person, firm or corporation, agent or manager of a corporation employing or permitting or suffering to work five or more children under the age of 18 years and over the age of 14 years in all places of business or establishments or occupations enumerated in Section 1 shall post and keep posted in a conspicuous place in every room in which such help is employed or permitted or suffered to work a list containing the names, age and place of residence of every person under the age of 18 years employed, permitted or suffered to work in such room, and it shall be unlawful for any person, agent, firm, company, co-partnership, corporation or manager of a corporation to require or permit or suffer or employ in any mill, factory, mine or packing-house, manufacturing establishment, workshop, store, laundry, millinery, dressmaking or mercantile establishment in which more than five persons are employed, or any theatre, concert hall or in or about any place of amusement where intoxicating liquors are made or sold, in any bowling-alley or bootblacking establishment, or in any place where messages are transmitted or distributed, or in any other occupation not herein enumerated which may be deemed unhealthful or dangerous, any child over the age of 14 years until an age certificate, approved as hereinabove provided, has been produced and

placed on file in any such establishment or place of employment as heretofore mentioned in this section. Provided, further, however, that immediately upon the employment of any child in any of the places enumerated in this Act the manager, superintendent, owner or agent shall notify in writing, the Factory Inspector of the employment of said child in the event proper age certificate is not filed, but such establishment or place of employment must procure from said child within five days from employment the age certificate provided for in this Act. Any violation of this section shall be punishable by a fine of not less than \$25 nor more than \$50 or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than six months, or both in the discretion of the Court.

**MISREPRESENTING AGE OF CHILD; PENALTY.**

Sec. 7. Be it further enacted, etc., That any parent or guardian or person or persons having control of or being responsible for the care of any child or person under the age of 16 who shall sign or swear or in any manner make false statement as to the age of said child or person under the age of 16 for the purpose of obtaining employment for said child or young person shall be deemed guilty of an offense for each violation thereof and upon conviction for the same shall be punished by a fine of not less than \$10 nor more than \$25 or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**INSPECTOR MAY REQUIRE CHILD TO SECURE CERTIFICATE OF AGE.**

Sec. 8. Be it further enacted, etc., That any child working in or in connection with any of the aforesaid establishments or in the distribution or transmission of merchandise or messages who appears to the inspector to be under the legal age is required to procure from the city or parish physician a certificate as to the physical fitness of said child to perform the work or service he or she is required to do.

**PRESENCE OF CHILD PRIMA FACIE EVIDENCE OF EMPLOYMENT.**

Sec. 9. Be it further enacted, etc., That the presence of any child under 14 years of age in any of the establishments enumerated in Section 1, except during the dinner hour, shall constitute prima facie evidence of his or her employment therein.

**ATTEMPTING TO DECEIVE INSPECTOR; PENALTY.**

Sec. 10. Be it further enacted, etc., That any owner, manager, supervisor or employee in any of the aforesaid occupations who shall hide or assist to escape or give warning of the approach of the inspector to any child or young person or woman in said establishment shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$5 nor more than \$15 or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**STATEMENT OF THE NUMBER OF PERSONS EMPLOYED; PENALTY.**

Sec. 11. Be it further enacted, etc., That any person, owner, agent, firm, manager, copartnership or company in charge of any establishment at the time of inspection shall be required to furnish the inspector a true statement of the number of persons employed in such establishment and any person, owner, agent, superintendent, firm, manager, company or copartnership who shall fail or refuse to furnish such statement or willfully understate the number of persons employed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$100 for each offense or imprisonment for not less than ten nor more than thirty days in the Parish Jail (Parish Prison in New Orleans) or both in the discretion of the Court.

**FACTORIES MUST NOTIFY INSPECTOR.**

Sec. 12. Be it further enacted, etc., That within one month after the

occupancy of any factory, workshop or mill or store or other aforesaid occupation or establishment where children, young persons or women are employed the occupant shall notify the inspector in writing of such occupancy. Failure to do this shall constitute a misdemeanor and shall be punishable by a fine of not less than \$10 nor more than \$25 or by imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**SEATS TO BE PROVIDED FOR FEMALE EMPLOYEES.**

**Sec. 13.** Be it further enacted, etc., That every person who shall employ any female in any factory, mill, warehouse, manufacturing establishment, workshop or store or any other occupation or establishment hereinabove mentioned shall provide suitable seats, chairs or benches for the use of the females so employed, which shall be so placed as to be accessible to said employees and shall permit the use of such seats, chairs or benches by them when they are not necessarily engaged in the active duties for which they are employed, and there shall be provided at least one chair to every three females. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**DRESSING ROOM AND CONVENIENCES TO BE PROVIDED; PENALTY.**

**Sec. 14.** Be it further enacted, etc., That every factory, mill, manufacturing establishment, workshop, warehouse, mercantile establishment or store and all other occupations and establishments hereinabove mentioned in which five or more young persons or women are employed and every such institution in which two or more children, young persons or women are employed shall be supplied with proper wash and dressing rooms and kept in a cleanly state and free from effluvia arising from any drain, privy or other nuisance and shall be provided, within reasonable access, with a sufficient number of proper water closets or privies for the reasonable use of the persons employed and at least one of such closets shall be provided for each twenty-five persons employed and wherever two or more persons and one or more female persons are employed as aforesaid a sufficient number of separate and distinct water closets, earth closets or privies shall be provided for the use of each sex and plainly so designated, and no person shall be allowed to use any such closet or privy assigned to persons of the other sex, an dsaid closets or privies shall not be locked during working hours. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**STAIRWAYS, ETC.**

**Sec. 15.** Be it further enacted, etc., That stairways with substantial hand-rails shall be provided in factories, mills and manufacturing establishments for the better safety of persons employed in said establishments. The doors of such establishments shall swing outwardly or slide, as ordered by the Factory Inspector and it shall be neither locked, bolted or fastened during working hours. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days, or both, in the discretion of the Court.

**PAINTING OF BUILDINGS.**

**Sec. 16.** Be it further enacted, etc., That every factory, mill or workshop in this State where women and children are employed shall be lime-washed or painted when deemed necessary and ordered by the health authorities. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than thirty days or both, in the discretion of the Court.

**DANGEROUS EMPLOYMENT.**

Sec. 17. Be it further enacted, etc., That no minor or woman shall be required to clean any part of the mill, gearing or machinery in any such establishment in this State while the same is in motion. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans), for not less than ten days nor more than thirty days or both, in the discretion of the Court.

**CLOSED HATCHES; PENALTY.**

Sec. 18. Be it further enacted, etc., That the opening of all hatchways, elevators, and well-holes upon every floor of every manufacturing, mechanical or mercantile or public buildings where women or children are employed in this State shall be protected by good and sufficient trap doors or self-closing hatches or safety catches or good strong guard rails at least three feet high. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Paris Prison in New Orleans), for not less than ten days nor more than thirty days or both, in the discretion of the Court.

**FAN FOR DISPOSING OF DUST AND LINT; SMOKE CONSUMERS; PENALTY.**

Sec. 19. Be it further enacted, etc., That in all establishments in this State wherein children, young persons or women are employed where any process is carried on by which dust, or smoke or lint is generated the inspector shall have the power and authority to order that a fan, or fans, or some other dust, or smoke or lint removing or consuming contrivance or contrivances be so placed as to prevent the inhalation of such dust or smoke or lint by the employees; provided, that two mechanical engineers, one chosen by the inspector and the other by the owner or owners of the establishment, shall agree as to the necessity of such fan or fans or other dust or smoke or lint removing or consuming contrivance or contrivances. Upon the failure of said two mechanical engineers to agree, a third mechanical engineer shall be chosen to arbitrate. Failure to comply with this section shall be punishable by a fine of not less than \$25 nor more than \$50 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than ten days nor more than six months or both, in the discretion of the Court.

**ACCIDENTS TO BE REPORTED; PENALTY.**

Sec. 20. Be it further enacted, etc., That all accidents in manufacturing, mechanical or other establishments or places within this State where children, young persons or women are employed which prevent the injured person or persons from returning to work within two weeks after the injury or which result in death shall be reported semi-annually by the person in charge of such establishment or place to the inspector. Failure to do this shall be deemed a violation of this section and punishable by a fine of not less than \$5 nor more than \$10 or imprisonment in the Parish Jail (Parish Prison in New Orleans) for not less than twenty-four hours nor more than ten days, or both, in the discretion of the Court.

**CITY TO PROVIDE OFFICE ROOM FOR INSPECTOR.**

Sec. 21. Be it further enacted, etc., That it shall be the duty of the city or town or parish employing an inspector or inspectors to provide a suitable office for same and pay for all necessary expenses incurred in the discharge of the duties of said office.

**ANNUAL REPORT.**

Sec. 22. Be it further enacted, etc., That there shall be an annual report of inspections made and all work and expenses in connection with said office forwarded to the Commissioner of Labor and incorporated towns and cities to the Mayor and Council of the cities and towns employing said inspector or inspectors.

**FACTORY INSPECTOR, NEW ORLEANS; SALARY.**

**Sec. 23.** (As amended by Act 61, 1912, p. 72). Be it further enacted, etc., That the mayor of the city of New Orleans, with the consent of the Council, shall appoint a factory inspector, who may be either male or female, to see that the regulations of this Act are observed and also to prosecute all persons who shall violate the same. Such inspector shall be paid a salary of not more than twelve hundred dollars per annum.

**FINES TO GO TO SCHOOL FUND.**

**Sec. 24.** Be it further enacted, etc., That all fines collected through this Act shall be paid over to the school fund in the parish where the fines are collected.

**Sec. 25.** Be it further enacted, etc., That all acts or parts of acts in conflict with this Act be and the same are hereby repealed.

**Sec. 26.** Be it further enacted, etc., That this Act shall take effect and be in force from and after its promulgation.

**Note.** Act 43, 1886, p. 55, and Act 34, 1906, p. 50, are on the same subject, but are not printed here, as the later act is a complete substitute for both.

The relator was charged with violation of the act, after conviction on previous like charges from which he had appealed. Held that probation would not lie to consider the subsequent charges and a stay of proceedings until the pending appeal is disposed of. State vs. Rose, 124 L. 526. A charge that the defendant permitted certain children under fourteen to perform on the stage of a theater, charges no offense recognizable in the juvenile court, when it fails to charge that they are neglected or delinquent. State vs. Rose, 125 L. 1080 (see note to Sec. 2 at p. 1083).

**EMPLOYMENT, ETC., OF CHILDREN FOR EXHIBITION.**

**Act 184 of 1912, p. 329.**

**TITLE.**

AN ACT declaring the employment, use or exhibition of children under sixteen years of age, and the training for purposes of exhibition, use and employment, and having in custody, and procuring, of such children, as rope or wire walkers, gymnasts, wrestlers, contortionists, riders or acrobats, in singing or dancing, playing upon musical instruments, in theatrical exhibitions, or wandering occupations, in any illegal, immoral or indecent exhibition or practice, or in the exhibition of insane, idiotic, deformed or unnaturally formed or developed children, in any practice or place of exhibition dangerous to the life, limbs, health or morals of children, shall be regarded as contributing to the neglect and delinquency of children, and declaring such acts to be misdemeanors, and providing penalty and punishment therefor by fine and imprisonment, or both; declaring that the provisions of this or any previous Act of the Legislature shall not apply to the employment of any child as a singer or musician in a church, school or academy, or in teaching or learning the science or practice of music, or in a theatrical exhibition, or as a musician in any concert, where a permit for such child has been obtained from a Juvenile Court, or District Court acting as such, and providing how and under what circumstances permits may be granted to children; requiring the furnishing of a bond by employers for the care and tuition of such children while in their employment, and setting forth the stipulations and conditions of such permits and bonds, and providing for the forfeiture of such bonds; making such permits revocable at the pleasure of the authority granting same; and providing other details in connection with the subject matter; and repealing all laws or parts of laws contrary to or inconsistent or in conflict with this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of exhibition, use or employment of, any child actually or apparently under the age of sixteen years, or who has the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training or use,

or exhibition of such child; or who neglects or refuses to restrain such child from such training or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat, or upon any bicycle or similar mechanical vehicle or contrivance; or;

2. In singing, or dancing, or playing upon a musical instrument, or in a theatrical exhibition or in any wandering occupation; or,

3. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

4. In any practice or exhibition or place dangerous or injurious to the life, limbs, health or morals of the child; shall be regarded as contributing to the neglect and delinquency of children and guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than twenty-five dollars nor more than two hundred and fifty dollars, or shall be imprisoned in the parish jail or parish prison for not more than two years, or by both such fine and imprisonment, and provided, further, that any person, firm or corporation licensed as or holding a license for any theatre within this State, who shall be convicted hereunder, shall, upon such conviction forfeit such license.

But this act does not apply, nor shall any act prior thereto apply, to the employment of any child as a singer or musician in a church, school or academy, or in teaching or learning the science or practice of music, or in a theatrical exhibition, or as a musician in any concert, where a permit therefor has first been secured from a judge of a juvenile court, or a district court acting as a juvenile court.

In the case of a non-resident child no permit shall be granted unless such child be accompanied by a parent or a guardian or a custodian duly designated in writing, attested by a notary public by said child's parents or guardian; nor shall said permit be granted unless it be shown to the satisfaction of the court that said child is receiving and during the period of said permit will receive proper instruction and teaching in common school studies.

The court granting such permit shall have the power to exact from the employer of the child, as a condition precedent to the granting of such permit, under such stipulations and conditions as may be determined by the judge of such court, a bond in a sum not exceeding two thousand dollars, to be executed in favor of the State of Louisiana, and conditioned to secure and guarantee the proper tuition as well as the moral and physical health of such child while in such employment. Such bond may be forfeited by showing a breach thereof in the State of Louisiana or elsewhere, and in such proceedings testimony may be taken as provided by law in civil cases in the civil courts of this State. Such permit shall not be given unless previous twenty-four hours' previous notice of the application therefor shall have been served in writing upon the Society for the Prevention of Cruelty to Children, if there be one in the parish, and a hearing had thereof, if requested, and such permit shall be revocable at the will and discretion of the authority granting it. The permit shall specify the name of the child, its age, the names and residence of its parents, or guardians, and its employers; the nature, time, duration, and number of performances permitted, together with the place and character of the exhibition. But no such permit shall be deemed to authorize any violation of the first, third or fourth subdivisions enumerated above.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws contrary to and inconsistent with or in conflict with this act are hereby repealed.

## **EMPLOYMENT OF CHILDREN AS GYMNASTS.**

**Act 59 of 1892, p. 81.**

### **TITLE.**

**AN ACT** to prevent the employment of children as gymnasts, contortionists or acrobats and to prevent their employment in places where their

morals are liable to be corrupted and prescribing penalties for the violation of the provisions of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any person who employs or exhibits or gives away for the purpose of employing or exhibiting a child under fifteen years of age, for the purpose of walking on a wire or rope, or riding or performing as a gymnast, contortionist, or acrobat in any circus or theatrical exhibition or in any public place whatsoever, or who causes, procures or encourages any such child to engage therein, shall be punished by a fine, by any committing magistrate, of not less than ten dollars, nor more than twenty-five dollars or shall be subject to a term of imprisonment not exceeding thirty days or both at the discretion of the court.

**Sec. 2.** Be it further enacted, etc., That no license shall be granted for a theatrical exhibition or public show in which children under fifteen years of age are employed as contortionists, acrobats, or in any feats of gymnast or equestrianism, or where in the opinion of the mayor of a city or town authorized to grant licenses, such children are employed in such a manner as to corrupt their morals or impair their physical health.

## **EMPLOYMENT OF CHILDREN IN CLEANING, ETC., MACHINERY.**

**Act 60 of 1892, p. 82.**

### **TITLE.**

**AN ACT** to prohibit the employment of children in cleaning or operating dangerous machinery.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no child under the age of twelve years shall be permitted to operate or clean any part of the machinery in a factory while such part is in motion by the aid of steam, water or other mechanical power, or to clean any part of such machinery that is in dangerous proximity to such moving part.

**Sec. 2.** That whoever, either for himself, or superintendent, foreman, overseer or other agent of another, violates the provisions of the preceding section, shall be punished by a fine of not less than ten nor more than twenty-five dollars, or shall be subject to imprisonment for a term not exceeding thirty days, or both at the discretion of the court for each offense.

## **SEATS AND LUNCH HOUR FOR FEMALE EMPLOYEES.**

**Act 55 of 1900, p. 87.**

### **TITLE.**

**AN ACT** requiring persons, firms or corporations doing business in the State of Louisiana at retail where female labor or female clerks are employed to furnish seats for said employees, and give them not less than thirty (30) minutes each day for lunch or recreation, and providing a penalty for the evading or disobeying of the provisions of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That hereafter it shall be unlawful for any person, firm or corporation doing business in the State of Louisiana, where female labor or female clerks are employed, not to maintain seats, chairs or benches which shall be so placed as to be accessible to said employees, for their use during the times when said employees are not actually engaged in the attention to their duties as employees of such firm, person or corporation.

**Sec. 2.** Be it further enacted, etc., That hereafter all persons, firms or corporations doing business at retail in the State of Louisiana where female labor or female clerks are employed, shall be required to give every employee each day, between the hours of ten (10) a. m., and three (3) p. m., not less than thirty (30) minutes for lunch or recreation.

**Sec. 3.** Be it further enacted, etc., That whoever shall be found guilty

of evading or disobeying any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon arrest and conviction therefor shall be fined in a sum of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), and in default of the payment thereof shall be sentenced to imprisonment for a period not less than five (5) days or more than six (6) months.

Sec. 4. Be it further enacted, etc., That all acts or parts of acts contrary to or in conflict herewith shall be and the same are hereby repealed.

## FEMALE OPERATORS OF ELEVATORS.

### Act 158 of 1918, p. 270.

#### TITLE.

AN ACT making it the duty of every owner, manager, or agent of any place of business, or establishment, wherein or whereon an elevator is installed to provide suitable seating or resting accommodations for the female operator, and providing a penalty for the violation of this Act.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every owner, manager, or agent of any place of business wherein or whereon an elevator is installed for the carrying of persons, goods, wares, and merchandise, shall provide for the convenience of the female operator of said elevator, while on duty proper seating or resting accommodations.

Sec. 2. Be it further enacted that the violation of this Act on the part of any owner, manager or agent as herein provided shall be a misdemeanor punishable before the Court of proper jurisdiction by a fine not to exceed Twenty-five dollars, or imprisonment not to exceed 10 days.

Sec. 3. Be it further enacted that all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## LUNCH HOUR.

### Act 195 of 1904, p. 429.

#### TITLE.

AN ACT to compel proprietors, firms or corporations doing business in this State, in cities of more than fifty thousand inhabitants, engaged in the retail business, or conducting retail department stores or retail establishments, to allow their clerks at least one hour of the day for their midday meal, lunch or recreation.

## REQUIRING EMPLOYERS IN CITIES OF 50,000 INHABITANTS TO ALLOW EMPLOYEES AT LEAST ONE HOUR FOR DINNER.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That hereafter it shall be unlawful for any proprietor or proprietors, firm or corporation doing business in this State, in cities of more than fifty thousand inhabitants, engaged in the retail business, or conducting retail department stores or retail establishments, not to allow their clerks at least one hour of the day, between the hours of 10:00 A. M. and 3:00 P. M. for their midday meal, lunch or recreation.

#### PENALTY FOR VIOLATION.

Sec. 2. Be it further enacted, etc., That any proprietor, or proprietors, firm or corporation, found guilty of, or evading, the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and in default of payment thereof be imprisoned not less than fifteen days (15) nor more than six (6) months.

#### REPEALING CLAUSE.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**PAYMENT OF EMPLOYES.****Act 255 of 1918, p. 463.****TITLE.**

AN ACT to amend and re-enact Act No. 108 of 1916, entitled an Act to amend and re-enact Act No. 25 of 1914, approved June 18th, 1914, entitled "An Act to require corporations, companies, associations, partnerships, and individuals engaged in manufacturing also oil companies and mining companies, employing public labor, and every public service corporation doing business in this State to pay the employees every two weeks or twice each month; providing a penalty for the violation of the provisions of this act, and repealing all laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That Act No. 108 of 1916, be amended and re-enacted so as to read as follows: "Be it enacted by the General Assembly of the State of Louisiana, That every corporation, company, association, oil companies and mining companies, partnerships or individual persons, engaged in manufacturing of any kind in this State, or engaged in boring for oil and in mining operations, employing as many as ten (10) or more employees, and every public service corporation doing business in this State, shall be required to make full payment to employees for services performed, as often as once every two weeks or twice during each calendar month, which pay days shall be two weeks apart as near as is practicable, and such payment or settlement shall include all amounts due for labor or services performed up to not more than seven days previous to the time of payment, except that public service corporations shall not be required to make payment for labor or services performed up to more than fifteen days prior to the time of payment, provided that, except in cases of public service corporations, this act shall not apply to the clerical force or salesmen.

**Sec. 2.** Be it further enacted, etc., That any corporation, or member of the Board of Directors of a corporation, foreman, manager, overseer, or paymaster of any company, corporation, association or partnership, or any other person having employees under his control, who violates the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than two hundred and fifty dollars, and may be imprisoned for not less than ten days, or both, at the discretion of the court, for each offense, and for each day's violation.

**Section 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

**IMMEDIATE PAYMENT OF LABORERS ON DISCHARGE.****Act 170 of 1914, p. 288.****TITLE.**

AN ACT providing for immediate payment of laborers or employees by every employer immediately if demanded by the discharged laborer or employee at the place where said employee or laborer is usually paid, upon being discharged by their employers and providing that failure to pay them shall make the employer liable for their full time until they are paid or tended payment.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, that it shall be the duty of every person, individual, firm or corporation employing laborers or other persons of any kind whatever when they have discharged said laborer or other employee, to immediately pay the laborer or employee the amount due him or them under the terms of his or their employment whether by the day, week or month, provided that at the time of discharge the said laborer or employee has thereupon demanded from the employer the amount due under his employment.

**Sec. 2.** Be it further enacted, etc., That any individual, firm, person or

corporation, employing laborers or others in this State who shall fail or refuse to comply with the provisions of Article 1 of this act shall be liable to the said laborer or other employee for his full wages until the said person, firm or corporation shall pay or tender payment of the amount due such laborer or other employee.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same, are hereby repealed.

Note. Act 250, 1912, p. 556, is not printed, as this act is a full substitute for it.

## FORFEITURE OF WAGES ON DISCHARGE.

**Act 62 of 1914, p. 154.**

### **TITLE.**

AN ACT to prohibit any individual, person, firm or corporation, acting either for themselves, or as agents to require employees by contract or otherwise when discharged or when such employee quits to forfeit the wages due and to prevent employers from assessing fines against employees and to provide penalties for the violation of this act.

### **CONTRACT FORFEITING WAGES IS UNLAWFUL.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana that it shall hereafter be unlawful for any person, individual, firm or corporation acting either for themselves or as agents or otherwise to require any of their employees to sign contracts by which said employees shall forfeit their wages if discharged before the contract is completed or if said employees resign their employment before said contract is completed; but in all such cases said employees shall be entitled only to the wages actually earned up to the time of his discharge or resignation.

### **ASSESSMENT OF FINES IS UNLAWFUL.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any individual, person, firm or corporation, acting either for themselves or otherwise, to assess any fines against their employees or to deduct any sum as fines from the wages of said employees, provided that this section shall not apply in cases where the employees wilfully or negligently damage goods or works or in cases where the employees wilfully or negligently damage or break the property of the employers and in such cases the fines shall not exceed the actual damage done.

### **PENALTIES IMPOSED.**

See. 3. Be it further enacted, etc., That any violation of this act shall be a misdemeanor and punishable by a fine of not less than \$25.00 or more than \$100.00 or imprisonment for at least 30 days or not more than 3 months, at the discretion of the court.

### **WHEN ACT GOES INTO EFFECT.**

Sec. 4. Be it further enacted, etc., This Act shall go into effect immediately after its promulgation and all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## **EMPLOYERS MUST PAY INTEREST ON DEPOSITS OF EMPLOYEES.**

**Act 31 of 1908, p. 33.**

### **TITLE.**

AN ACT to compel corporations, firms or individuals, doing business in this State, demanding of their employees a cash deposit as a guarantee for the faithful performance of the duties imposed on such employees, to pay to such employee a reasonable sum in interest on the amount so deposited.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all corporations, firms and individuals doing business in this State requiring of it or their employees a cash deposit as a guarantee for the faithful performance of the duties imposed upon such employees, shall pay to such employee in cash interest at the rate of not less than four per cent. per annum on the cash sum so deposited.

**Sec. 2.** Be it further enacted, etc., That this act shall go into effect immediately after its promulgation.

## **INTEREST ON ADVANCES TO EMPLOYEES.**

**Act 240 of 1912, p. 536.**

### **TITLE.**

AN ACT entitled an Act to prohibit employers, whether they be builders, contractors, or any other individual, or corporation engaged in constructural paving or other work, whereat are employed skilled and other laborers, where wages are paid weekly or semi-monthly, from lending or advancing to their employees, at a greater rate of interest than is fixed and permitted by law, and to define the offense and to fix the penalty for so doing.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any individual, whether for his own account or for that of any other individual or corporation to lend or advance money to one of his employees, or to a laborer engaged in constructural, paving or other manual employment at a greater rate of interest than 8 per cent per annum, otherwise he shall be deemed guilty of a misdemeanor and upon the complaint of any victim or other person he shall be tried before a court of competent jurisdiction, and upon conviction shall be fined not less than \$25.00 nor more than \$100.00 or imprisoned for a period of not more than three months or both at the discretion of the court.

**Sec. 2.** Be it further enacted, etc., That this act shall go into effect immediately after its passage and that acts in conflict therewith be and are hereby repealed.

## **BONDS OF EMPLOYEES OF PUBLIC UTILITY CORPORATIONS.**

**Act 222 of 1912, p. 507.**

### **TITLE.**

AN ACT making it unlawful for Public Utilities Corporations to require their employees, when bond is required by such corporations of any of their employees, for the faithful discharge of their duties, to make such bond by giving any Bonding Company designated or named by such corporation as surety on such bond; providing what bonds shall be accepted and fixing penalties for the violations hereof.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever public utilities corporations in this State shall require of their employees or any employee in their or any such corporation's employ, bond for his or her fidelity and honesty, it shall be and it is hereby declared unlawful for such corporation or the officers or the managers thereof to require such employee to make such bond by giving as surety any certain bonding company designated or named by such corporations, its officers or managers; provided that any bonding company authorized to do business under the laws of the State of Louisiana that may be selected by such employee shall be accepted as surety on such bond or bonds when such bonding company is offered as such surety, provided that when satisfactory to

succh employers, bond may be made in such cases by the employee giving privavte surety; provided that this Act shall not apply to bonds whereon the premium is paid by the employer and is not charged to the employee in any manner.

Sec. 2. Be it further enacted, etc., That any one violating any of the provisions of Section 1 of this Act shall upon conviction thereof before a court of competent jurisdiction be subject to a fine not exceeding \$500.00 or imprisonment not exceeding six months.

Sec. 3. Be it further enacted, etc., That this Act shall take effect from and after its promulgation.

### **REDEMPTION OF TICKETS, ETC.**

#### **Act 228 of 1908, p. 345.**

##### **TITLE.**

**AN ACT** making any person, firm or corporation, liable on demand in current money of the United States, to any legal holder thereof, for the full face value of any checks, punchouts, tickets, tokens or other device, issued by them and redeemable either wholly or partially in merchandise at their, or any other, place of business, providing for the enforcement of this Act, and fixing the date when it shall go into effect.

##### **MAKING TICKETS, CHECKS, ETC., REDEEMABLE IN MERCHANDISE, PAYABLE IN CURRENT MONEY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any person, firm or corporation issuing checks, punchouts, tickets, tokens, or other device, redeemable either wholly or partially in goods or merchandise at their, or any other place of business, shall, on demand of any legal holder thereof, on the next pay day of such person, firm or corporation issuing same succeeding the date of issuance of same be liable for the full face value thereof, in current money of the United States.

##### **SUCH TICKETS, ETC., PAYABLE TO BEARER.**

Sec. 2. Be it further enacted, etc., That any such checks, punchouts, tickets, tokens, or other device, issued by any person, firm or corporation, shall be considered and treated as payable to bearer, on demand, in current money of the United States, notwithstanding any contrary stipulation or provision whicch may be therein contained.

##### **DAMAGES FOR FAILURE TO PAY.**

Sec. 3. Be it further enacted, etc., That in case of failure of any person, firm or corporation to pay any legal holder of any such checks, punchouts, tickets, tokens, or other device, issued by them, the full face value thereof, in current money of the United States, when so demanded, such holder may immediately bring suit thereon in any court of competent jurisdiction, and, in addition to recovering the full face value thereof, with legal interest from demand, may recover ten per cent of said amount as attorney's fees recoverable in the same suit.

Sec. 4. Be it further enacted, etc., That this act shall take effect from and after its promulgation.

Note. A trade check in the form of a promissory note payable to bearer in merchandise, if not an order for money, is a "note" within the statute against the forgery of notes, orders, etc. *State vs. White*, 128 L. 110. This act does not violate any provisions of the Constitution of the United States. *Regan vs. Tremont Lumber Co.*, 134 L. 189. Pleading Res. Judicata, etc., connected with the act. *New York Mercantile Co. vs. Cady Lumber Co.*, 133 L. 729.

**LENDING MONEY ON ASSIGNMENT OF WAGES, ETC.****Act 102 of 1916, p. 223.****TITLE.**

AN ACT to regulate and control the business of lending money on assignment of salaries or wages, or on salaries or wages without assignments or orders; to provide for the payment and collection of a license tax thereon; to confer power on parish, municipal, and other local governed bodies to levy licenses to pursue such business; to provide for the filing of reports with the State Commissioner of labor and Industrial Statistics; to provide for the rate of interest to be charged on such loans; and providing a penalty for the violation of this Act; and repealing all laws and parts of laws in conflict herewith.

**LICENSE NECESSARY TO ENGAGE IN BUSINESS OF LENDING.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no person, firm or corporation shall engage in the business of making advances or loans of money on assignments of salaries or wages, or on salaries or wages without assignments or orders, without first having obtained a license to do such business in the manner hereinafter provided.

**ANNUAL LICENSE TAX.**

Sec. 2. Be it further enacted, etc., That there is hereby levied an annual license tax by the State of Louisiana for the conduct of such business which shall be graded according to the actual capital in use in said business as follows:

First Class—Where the capital in use is more than \$25,000 the license shall be \$500.00.

Second Class—Where the capital in use is less than \$25,000 the license shall be \$250.00.

Provided that if any person, firm or corporation carrying on the business designated in Section 1, shall conduct more than one office or place of business whether in the same or under different names, such persons, firm or corporation shall pay a separate license for each and every office or place of business it shall conduct according the hereinabove specifications.

**ADDITIONAL LICENSES.**

Sec. 3. Be it further enacted, etc., That the Police Jury, commission council, city council, or other governing body of any parish, city, town or village, shall be empowered to levy an additional license which shall be graded according to the capital in use as specified in Section 2 of this Act.

**INTEREST WHEN LICENSE NOT PAID.**

Sec. 4. Be it further enacted, etc., That all unpaid licenses shall bear interest at the rate of two per cent per month from the first day of March, and the payment thereon shall be secured by first lien and privilege in favor of the State, and any parish, city, town or village upon the property, movable and immovable, of the delinquent owing the license, and the tax collector or ex-officio tax collector of the State, parish, city, town or village, shall collect said license and interest in the manner provided by existing laws.

**REPORT TO STATE COMMISSIONER.**

Sec. 5. Be it further enacted, etc., That whenever the State shall issue a license to do business as herein provided, the officer issuing such license shall report to the State Commissioner of Labor and Industrial Statistics, the name and address of the person, firm or corporation to which such license is issued, and it shall be the duty of said commissioner within thirty days of the issuance of such license to require a report from the

licensee under oath, on blanks to be furnished at the expense of the State, containing the name of the person, firm or corporation engaged in said business, the location of the place of business, and the amount of capital in use in said business at the date of making such report, and all other funds used in loanable capital in said business and obtained other than through capital contribution.

**RATE OF INTEREST.**

Sec. 6. Be it further enacted, etc., That the borrower shall not be permitted to pay, nor the lender to charge, whether in the form of interest, commissions, discounts, or fees of whatsoever sort, a total of more than eighteen per cent per annum for the actual length of time the money is used.

**RECORDS WHICH MUST BE KEPT.**

Sec. 7. Be it further enacted, etc., That any person, firm or corporation engaged in the business mentioned in Section 1 of this Act, shall keep a full, true and correct record of all loans and advances made by him or it, which record shall show the names and addresses of the person, firm or corporation to whom such loans are made, the rate of interest and the terms of such loans or advances; and shall also keep a true and correct record of all sums repaid to him or it on account of such loan or loans as principal, or interest thereon, or as commissions or as a fee or fees of any and every sort connected therewith.

**ASSIGNMENTS NOT VALID UNTIL ACCEPTED.**

Sec. 8. Be it further enacted, etc., That no assignment of or order for wages to be earned in the future shall be valid in favor of the person, firm or corporation engaged in business as provided for in this act, against the employer of the person making such assignment or order, until such assignment or order is accepted in writing by said employer.

**WHAT ASSIGNMENTS INVALID.**

Sec. 9. Be it further enacted, etc., That no assignment of or order for wages or salaries to be earned in the future shall be valid when made by married men, unless the written consent of his wife to the making of such assignment or order is attached thereto; provided, that where a married man is living separate and apart from his wife for a period of five months prior to such assignment or the giving of such order, then such consent shall not be required.

**PENALTY IMPOSED.**

Sec. 10. Be it further enacted, etc., That any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than \$250.00 nor more than \$500.00.

**REVOCATION OF LICENSE.**

Sec. 11. Be it further enacted, etc., That any person, firm or corporation who shall be convicted of a violation of the provisions of this Act shall have his or its license to do business under the provisions of this act, summarily revoked, and all loans made or entered into in contravention of the provisions of this act shall be cancelled and declared void and of no force and effect.

**REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

## **PROTECTION OF HIRE, TENANT AND SHARE CONTRACTS.**

**Act 54 of 1906, p. 87.**

### **TITLE.**

**AN ACT** to enforce hire, tenant and share farming contracts, when money or goods are obtained thereon, and to punish their wilful violations; to make it an offence for persons not parties to said contract to wilfully interfere therein, and to prohibit the fraudulent arrest of and unlawful detention of persons under this Act, and prescribing penalties for the punishment thereof.

### **MAKING IT A MISDEMEANOR FOR SHARE HANDS TO VIOLATE THEIR CONTRACTS; PENALTY.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whoever shall willfully violate a hire, tenant or share contract, conditioned on the cultivation of land in this State, upon the faith of which contract money or goods have been advanced, by leaving the employ of the person or abandoning the land, the subject of the contract, without first tendering to the person by whom said money or goods was advanced, the amount of money or the value of the goods obtained, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than ten dollars (\$10), nor more than two hundred dollars (\$200), and in default of the payment of the fine shall be imprisoned in the parish jail for not more than ninety days at the discretion of the Court.

### **INTIMIDATING OR INDUCING HIRED PERSONS, ETC., TO VIOLATE CONTRACTS PROHIBITED.**

**Sec. 2.** Be it further enacted, etc., That whoever shall willfully interfere with, entice away, intimidate or induce a hired person, tenant or share hand to leave the service of the employer or to abandon the land the subject of the contract, or who shall knowingly take into his employ any such person before the expiration of the contract, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten dollars (\$10), nor more than two hundred dollars (\$200) for each offense, and shall be liable in a civil action for damages to double the amount of any debt due by said hired person, tenant or share hand to the person, who had made the advances.

### **MAKING IT A MISDEMEANOR TO CAUSE FALSE ARREST OR DETENTION; PENALTY.**

**Sec. 3.** Be it further enacted, etc., That any person taking advantage of the provisions of this Act who shall falsely or fraudulently cause the arrest of, or otherwise unlawfully detain a hired person, tenant or share hand, who has not violated the contract, or after its expiration, such person shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) or imprisonment for not less than thirty days nor more than sixty days.

### **REPEALING CLAUSE.**

**Sec. 4.** Be it further enacted, etc., That Act 50 of 1892, and all other laws or parts of laws in conflict herewith are hereby repealed; and it is provided, that none of the penalties prescribed by this Act, shall apply to any farming contract which may be made for a period longer than one year.

**Note.**—The accused was convicted of a violation of the act and sentenced to pay a fine of fifteen dollars and costs of prosecution, and in default thereof to be imprisoned in the parish jail for twenty days. The accused moved to quash the indictment on the ground that the statute is repugnant to the thirteenth amendment to the Constitution of the U. S. etc., denouncing the crime of peonage. The motion was overruled and the accused appealed. Motion to dismiss the appeal was sustained, as the Court was without jurisdiction over the sentence imposed. The raising of the federal question does not give the Supreme Court, appellate jurisdiction. *State vs. Jones, 128 L. 1097*

**MECHANICS EMPLOYED ON PUBLIC BUILDINGS;  
REQUIREMENTS.****Act 271 of 1908, p. 398.****TITLE.**

AN ACT requiring that mechanics employed on all State or public buildings or public works in cities exceeding ten thousand (10,000) population throughout the State, shall be citizens of the State, except under certain conditions, and shall have paid one (1) poll tax; and providing penalties for the violation of its provisions.

**ONLY CITIZENS, ETC.. OF LOUISIANA TO BE EMPLOYED ON PUBLIC BUILDINGS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every contractor, superintendent or duly authorized agent engaged in the construction of any State or public building or public works for the State of Louisiana, in cities whose population exceeds ten thousand (10,000) shall employ only mechanics who are citizens of the State and who have paid their poll tax for the current or next preceding year prior to engaging in the work.

**WHEN OTHERS MAY BE EMPLOYED.**

Sec. 2. Be it further enacted, etc., That in the event mechanics, where such works or buildings are being constructed, are not available, then such contractor, superintendent or duly authorized agent, shall notify the mayor of the city wherein the work is being done, and unless the mayor of said city shall forthwith supply such contractor, superintendent or duly authorized agent with the mechanics needed, said contractor, superintendent or duly authorized agent shall be authorized to employ mechanics who are not citizens of the State of Louisiana, to make up the deficiency, provided that nothing herein shall be construed to prevent the State of Louisiana or any parochial or municipal corporation from placing or letting any contract for the erection or construction of any public building or public work, in the open market, and soliciting bids from persons or corporations without the State of Louisiana.

**PENALTIES IMPOSED.**

Sec. 3. Be it further enacted, etc., That any contractor, superintendent or duly authorized agent violating any of the provisions of this act, shall be liable, after conviction before a court of competent jurisdiction, to a fine of not more than one hundred dollars (\$100.00) or imprisonment of not more than sixty (60) days, or both at the discretion of the court.

**COERCING EMPLOYEES TO JOIN LABOR ORGANIZATIONS, ETC.****Act 294 of 1914, p. 602.****TITLE.**

AN ACT to provide for coercing or influencing or making demands upon or requirements of employees, servants, laborers, and persons seeking employment.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any individual or member of any firm, or any agent, officer or employee of any company or corporation, to coerce, require, demand or influence any person or persons to enter into any agreement, either written, verbal, or implied, not to join or become a member of any labor organization or association, as a condition of such person or persons securing employment or continuing in the employment of such individual, firm or corporation.

Sec. 2. Be it further enacted, etc., That any individual or member of any firm, or any agent, officer or employee of any company or corpora-

tion violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50.00), or imprisoned in the parish jail not less than thirty days.

Sec. 3. Be it further enacted, etc., That this act shall take effect and be in force from and after promulgation.

## **HEALTH, ETC., OF LINOTYPE, ETC., OPERATORS.**

**Act 237 of 1912, p. 534.**

### **TITLE.**

AN ACT to promote the health and comfort of employees of newspaper and printing concerns in the State of Louisiana, operating three or more linotype or other type-casting machines.

### **EXHAUST FANS MUST BE INSTALLED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana; That hereafter all newspaper and printing concerns operating in the State of Louisiana, using three or more linotype or other type-casting machines, shall be required to install in the room or rooms in which said machines are operated, an exhaust fan or other device of sufficient capacity to keep pure air circulating in said room and to expel the poisonous metal fumes arising from said linotype machines.

### **VENT PIPES FROM EACH MACHINE.**

Sec. 2. Be it further enacted, etc., That all newspaper and printing concerns operating in the State of Louisiana, using three or more linotype or other type machines shall be required to install vent pipes on each machine running from the metal pot to a flue or other aperture leading to the outside of the building.

### **PENALTIES IMPOSED.**

Sec. 3. Be it further enacted, etc., That the penalty for the violation of the provisions of this Act shall be a fine of not less than \$25.00, nor more than \$100.00 or imprisonment not to exceed sixty days or both, in the discretion of the court for each offense; and every fifteen days that elapse without complying with the Act will be deemed a separate offense.

Note. Act 245, 1912, p. 546: Stationary Firemen—unconstitutional—State vs. Birba, 132 La. 768. Act 201, 1914, p. 385—unconstitutional—State vs. Legandre, 188 La. 154.

## **LABOR AGENCIES AND BUREAUS OF EMPLOYMENT.**

**Act 58 of 1894, p. 66.**

### **TITLE.**

AN ACT to regulate the mode and manner of conducting the affairs and business of Labor Agencies and Bureaus of Employment.

### **AGENCY MUST OBTAIN PERMISSION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That from and after the date of the passage of this act, that no one shall carry on, hold or keep any Labor Agency or Bureau of Employment without first having obtained the written permission of the Mayor of the city or town wherein said agency or bureau is to be located.

### **BOND WHICH MUST BE GIVEN.**

Sec. 2. Be it further enacted, etc., That before any person or persons, shall be entitled to open, keep or conduct any labor agency or bureau of employment within the jurisdiction of said city or town, he shall furnish a bond with good and solvent security in favor of the Mayor of the said city or town in the full sum and amount of five thousand dollars (\$5,000) conditioned that he shall well and truly carry out the purposes for which said

agency shall have been established, and that he shall pay all such damages which may result from his actions as such labor agent or keeper of said bureau of employment; and that anyone who may have been injured and damaged by said agent, by any act done in furtherance of said business or by fraud or misrepresentations of said agents or keepers, shall have a right to sue for the recovery of such damages, before any court of competent jurisdiction.

**PENALTIES IMPOSED.**

Sec. 3. Be it further enacted, etc., That anyone violating the provisions of this law, shall be subjected to a fine of twenty-five dollars, for each violation thereof, or imprisonment for not more than thirty days or both at the discretion of the court, in whose jurisdiction the offense was committed.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 4. Be it further enacted, etc., That this law shall take effect from and after its passage.

**LABOR AGENTS AND AGENCIES.****Act 145 of 1918, p. 251.****TITLE.**

AN ACT to regulate the business of labor agents or labor agencies, and fixing penalty for the violation of the provisions of this Act.

**WHO DEEMED A LABOR AGENT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any person who solicits, hires, or contracts with, laborers, male or female, to be employed by persons other than himself, and every agent of such person, except as may be hereinafter provided, shall be deemed to be a labor agent.

**COMMISSIONER OF LABOR HAS SUPERVISION.**

Sec. 2. Be it further enacted, etc., That the business of labor agents, or agencies, shall be under the supervision of the Commissioner of Labor and Industrial Statistics of the State of Louisiana.

**LICENSE TAX OF AGENTS.**

Sec. 3. Be it further enacted, etc., That every person who engages in the business of a labor agent, except as herein below provided, shall pay unto the State of Louisiana an annual license tax of five hundred dollars (\$500.00), but before any such license shall be issued, the applicant shall produce and file with the Commissioner of Labor a certificate from the Judge of the District Court of the Parish in which such labor agent proposes to have his office, or of the Parish in which he proposes to do business, certifying that to the personal knowledge of said Judge, or from the information of creditable witnesses under oath, he is satisfied that the said applicant is a person of good character and honest demeanor; provided, that labor agents in cities and towns in this State who have and keep a regular office in such city or town and who transact all of their business in such office, and who do not in person or by agent solicit, or hire, or contract, with laborers outside of such office, or attempt to do so, except by written telegraphic or telephonic communications, after securing a certificate from the judge as above required, shall be required to pay annually only twenty-five dollars (\$25.00) license tax unto the State of Louisiana for such privilege, and the license so paid for and obtained shall permit all the employees of such person who assist in the prosecution of such work in such office only, as aforesaid, to aid therein.

**BOND OF AGENTS.**

Sec. 4. Be it further enacted, etc., That in addition to securing the certificate and paying the license tax provided in this Act, every person

who engages in the business of a labor agent, or who is now engaged in such business, shall furnish to the Commissioner of Labor a bond with good and solvent security in the sum of five thousand dollars (\$5,000.00) conditioned that such person shall pay all such damages which may result from his actions as such labor agent; and that any one who may have been injured and damaged by said agent by fraud or misrepresentation of said agents shall have a right to sue on said bond to recover such damages before any court of competent jurisdiction. The bond furnished to the said Commissioner of Labor shall be by him filed in the office of the Treasurer of the State of Louisiana.

**PENALTIES FOR VIOLATION.**

Sec. 5. Be it further enacted, etc., That any person who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), or imprisoned in the Parish jail for a period of not less than ten nor more than ninety days, or both fine and imprisonment at the discretion of the Court.

**ACTS WHICH ARE NOT REPEALED.**

Sec. 6. Be it further enacted, etc., That this Act shall in no way interfere with or repeal the provisions of Act No. 54 of 1906 or acts amendatory thereto.

**NOT APPLICABLE TO AGRICULTURAL LABORERS.**

Sec. 7. Be it further enacted, etc., That the provisions of this Act shall not be construed so as to prevent the employment or the solicitation of labor to cultivate or harvest agricultural products within the State of Louisiana.

**EFFECT WHERE ONE SECTION UNCONSTITUTIONAL.**

Sec. 8. Be it further enacted, etc., That if for any reason any section or part of this Act shall be held to be unconstitutional or invalid, then that part shall not invalidate any other part of this Act, but the same shall be enforced without reference to the parts so held to be invalid.

**REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and they are hereby repealed.

**MUNICIPAL FREE LABOR BUREAUS.**

**Act 307 of 1914, p. 632.**

**TITLE.**

AN ACT authorizing any city to establish and maintain a free employment bureau, without giving bond or paying a license therefor.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That municipalities are hereby authorized and empowered, by ordinance of the council, to establish and maintain a free employment bureau, and no bond shall be required in connection therewith, nor shall any license whatever, or taxes of any kind, be assessed or levied against such agency.

Sec. 2. Be it further enacted, etc., That no fees, of any nature whatever, be required for any purpose, by such municipal employment bureau.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be, and the same are, hereby repealed.

**LANDLORD AND TENANT.****[Ejectment Proceedings.]**

[R. S., Sec. 2155.] (As amended by Act 49, 1918.) When any person, having leased any house, store or other building, or landed estate, for terms of one or more years or by the month or otherwise, either verbally or otherwise, shall be desirous of obtaining possession of the said leased premises upon the termination of the lease, either by limitation, or by non-payment of the rent when due, or any other breach of said lease, he shall demand and require in writing his tenant to remove from and leave the same, on allowing him five calendar days from the day such notice is delivered, and if the owner or his agent shall be desirous of obtaining the possession of the said leased premises for any other reason or cause, such as for the purpose of leasing the said premises to another tenant, or otherwise, he shall give the tenant a notice in writing to vacate, ten days before the expiration of the month, if the same be a monthly lease, or thirty days before the expiration of the lease, if the said lease be in writing, and for a term of one or more years, or otherwise, other than by the month; and if the tenant shall refuse to comply therewith, and with the said notice, after the expiration of such delay, and to remove from the said premises, it shall be lawful for such lessor to cause the tenant to be cited summarily to show cause, within two days after service of such rule, to appear before any court, having competent jurisdiction, in order to be there condemned to deliver him the possession of the leased premises. On the day and hour that the said rule is made returnable, which day shall be the third day after the service of the said rule, the justice or judge shall immediately try the rule, and hear the defense to same, if any is made, and if no appearance is made by said tenant, either in person or through counsel, the said justice or judge shall give judgment against said tenant, ordering him to deliver to the lessor the possession of the leased premises. If the tenant does not comply with the judgment, within twenty-four hours after the rendition of said judgment, it shall be the duty of said justice or judge who rendered the judgment to issue forthwith his warrant, directed to the constable, marshal or sheriff of his court, commanding him forthwith to deliver to the lessor the full possession of the leased premises, and to levy the costs of the case out of such goods and chattels of the tenant as are allowed by law to be seized; and in case the constable should find the windows and doors of the house, store or other buildings, or gates of the landed estate so leased locked up it shall be lawful for him on a warrant issued to that effect by the justice or judge having competent jurisdiction to break open the doors, windows or gates in the premises, in the presence of two witnesses, in order to put the lessor in full possession of leased premises.

*Note.* Granting the lessees the option to purchase the property during the existence of a contract of lease will not deprive the landlord of the remedy provided by this section. *Doullut vs. Rush*, 142 L. 443. The lessor filed suit claiming rent, then

filed suit for ejectment. Held a plea of lis pendens filed in the latter proceeding will not be maintained. *Dollut vs. Rush*, 142 L. 443. The tenant alleging the existence of a lease enjoined the landlord from ejecting him, the landlord reconvened. Held that the case was summary. *State ex rel McMahon vs. Judge*, 50 A. 1340. The summary character of the proceedings are not changed into ordinary, by the averments of the answer or the intervention of third party. *Mitchell vs. Kelly*, 51 A. 281. Answer must be filed within three days from date of service and trial had on three days notice. *Ricou vs. Hart*, 47 A. 1370; *Ward vs. Stakelum*, 47 A. 1546. (The earlier cases are cited in the opinion, pleas must be filed with answer. *Godchaux vs. Bauman*, 44 A. 25 B.; *State ex rel Mall vs. Judge*, 37 A. 843. The rule of court designating certain days to try Civil Jury cases, does not necessarily exclude trial of summary cases. *Ricou vs. Hart*, 47 A. 1370. (See note to R. S. Sec. 2157).

#### [**Jurisdiction of Courts.**]

**[R. S., Sec. 2156.]** Whenever the monthly rent paid by the tenant, or the lease which he shall allege to hold, shall exceed the sum of one hundred dollars, then the summary proceedings allowed by the preceding section for the possession of leased property shall be instituted and carried on before any District Court having competent jurisdiction in the manner provided in the preceding section, and the cases shall at all times be tried by preference, after three days notice.

**Note.** The Civil District Court has jurisdiction when and where the monthly or yearly rent exceeds one hundred dollars (*Ward vs. Stakelum*, 47 A. 1546) and when admissible by the nature of the action it may be shown that the amount involved is within the courts jurisdiction. *Godchaux vs. Bauman*, 44 A. 253. There is no presumption of tacit renewal (reconductio) where no plea has alleged it. *Godchaux vs. Bauman*, 44 A. 253.

When the "yearly rent" exceeds \$100, though payable in monthly instalments of less than \$100, the District Court has jurisdiction to entertain ejectment proceedings. *Dreyfus vs. Process Art Co.* 140 L. 50. *Langa vs. Bradat*, 127 L. 543.

#### [**When Suspensive Appeal Will Lie.**]

**[R. S., Sec. 2157.]** No appeal from any such judgment shall suspend execution unless the defendant has filed a special defence, supported by his oath, that all the facts contained in his answer are true, and entitle him to retain possession of the premises, and unless further, he give bond with good and sufficient security, for all such damages as the appellee may sustain.

**Note.** A suspensive appeal from a judgment ordering the ejection of lessees will be granted only when a specific defense has been made as provided in this section. The general rule of the code of practice relating to appeals do not apply (*Dollut vs. Rush*, 142 L. 452, citing previous cases). Appellants must present a specific defense setting up some relevant fact, the section does not authorize an appeal, where the defense is based on defendants opinion of the law of the case, failing to do this, defendants are without right of appeal. *Dollut vs. Rush*, 142 L. 454.

The appeal must be taken within twenty-four hours from the rendition—not the signing—of the judgment. Nor is it such a special defense as will warrant a suspensive appeal, when the defendant after judgment endorses an affidavit on the previously filed answer, and an appeal bond in such a case is not the ordinary appeal bond prescribed by the code of practice, but should be "for all such damages as the appellee may sustain, no valid appeal having been taken. The lower court had jurisdiction to issue a writ of ejectment and relief by certiorari denied. *Audubon Hotel Co. vs. Brauning*, 119 L. 1070.

The delay for appeal begins to run from the time the judgment is pronounced and not from the time it is entered on the minutes, and it runs from the time of rendition and not the signing of the judgment. *State ex rel Mall vs. Judge*, etc., 128 L. 914.

The amount of the bond for a suspensive appeal which the tenant must give in ejectment proceedings is fixed by this section and not the provisions of the code of practice and the trial judge fixes the amount. *State ex rel Werlein vs. Ellis*, 110 L. 1042.

#### [**Act Applicable to Sub-Lessees.**]

**[R. S., Sec. 2158.]** It shall be lawful for any lessor to make use of the provisions of the foregoing sections against any under lessee or tenant whom he may find in possession of the premises by him so leased.

**[Interpretation of Act.]**

**[R. S., Sec. 2159.]** Nothing herein contained shall be so construed as to deprive any landlord or lessor of any remedy heretofore allowed him, either for the payment of the rent to him due, or for seizure of such part of the furniture found on the premises so leased as is allowed by law.

**[R. S., Sec. 2160.]** Exemptions from Privilege of Landlord. R. C. C., Art. 2705.

**[R. S., Secs. 2161, 2162.]** Lessee's right to bond, writ of provisional seizure. C. P., Art. 287.

**[Preference for Trial of Ejectment Suits.]**

**[R. S., Sec. 2163.]** All suits for the expulsion of tenants, brought in pursuance of this act shall at all times be tried by preference in the Supreme Court of this State, any law or laws to the contrary notwithstanding.

**[R. S., Sec. 2164.]** Leases may be made in writing or verbally. R. C. C., Art. 2683.

**[R. S., Sec. 2165.]** (Amending C. P., Art. 287, so that writ of provisional seizure may under certain conditions be obtained before rent is due. Now embodied in C. P., Art. 287.

**LESSOR'S RIGHTS IN CROP WHEN LAND LEASED ON SHARES.**

**Act 211 of 1908, p. 315.**

**TITLE.**

AN ACT to protect the lessor against the loss of his portion of crop in certain cases; and providing a penalty for the violation of the provisions of this Act.

**FIXING THE RIGHT OF LESSOR TO HIS PORTION OF THE CROP ON LEASED LAND.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the lessor leases land to the lessee for part of the crop, that portion or part of the crop or crops agreed upon by both parties to the contract, which the lessor shall receive, shall be and is hereby declared to be at any and all times the property of the lessor.

**MAKING IT A MISDEMEANOR FOR LESSEE TO DISPOSE OF LESSOR'S SHARE.**

Sec. 2. Be it further enacted, etc., That in the event the lessee sells, causes to be sold or in any manner makes disposition of such part or proportion of the crop or crops belonging to the lessor as provided for in Section 1 of this Act, such act by the lessee is hereby declared a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not to exceed \$100.00, or imprisonment not to exceed thirty days or both fine and imprisonment at the discretion of the court.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 3. Be it further enacted, etc., That this Act shall take effect from and after its promulgation.

**LESSEE'S CROPS NOT LIABLE FOR DEBT OF LAND-  
OWNER.**

**Act 100 of 1906, p. 166.**

**TITLE.**

AN ACT to prevent the lessee's crops from being taken to pay the debt of the landowner.

Be it enacted by the General Assembly of the State of Louisiana, That the growing crops of the lessee for the current year under a lease, recorded or unrecorded, cannot be held to pay an ordinary debt of the landowner, or any mortgage whether judicial or conventional, which may have been recorded after the date of the lease.

**LIMIT OF LESSOR'S LIEN AND PRIVILEGE.**

**Act 128 of 1894, p. 163.**

**TITLE.**

AN ACT to limit the lessor's privileges in certain cases.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the lessor's privilege and right of pledge under any lease, on any building used wholly or in part for mercantile purposes, executed or entered into after August 31, 1894, shall not extend in case of the failure or death of the lessee in such a way as to secure rent for a term of more than one year after such failure or death, provided that nothing herein shall be construed so as to deprive the landlord of his privilege upon the effects on the leased premises, belonging to the purchaser, of the lease for the unexpired term, at succession, sheriff's or syndic's sale, except in case of the insolvency or decease of said purchaser, in such case, the provisions of this act shall apply in full force.

Note. The lessors privilege attaches for twelve months whether it be or be not occupied by the tenants. Trustee in Bankruptcy. Trager & Co. vs. Cavaroc, 124 L. 611. The limitation of the landlords right to twelve months, contained in the act applies only to leases of buildings used wholly or in part for mercantile purposes. Insolvency matured the future rentals, and present value is obtained by deducting interest, etc. Patterson Co. vs. Port Barre Lumber Co., 136 L. 60.

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**LAWS.**

**[Repeal of Laws in Force Before Civil Code, Etc.]**

[R. S., Sec. 2166.] All the civil laws which were in force before the promulgation of the Civil Code are abrogated, except so much of title tenth of the old Civil Code as is embraced in its third chapter, which treats of the dissolution of communities or corporations.

**[Abrogation of Rules of Procedure, Etc.]**

[R. S., Sec. 2167.] All the rules of proceeding which existed in this State before the promulgation of the Code of Practice, except those relative to Juries, recusation of judges and other officers, and of witnesses, and with respect to the competency of the latter, are abrogated.

[R. S., Sec. 2168.] Promulgation of laws, superseded by Const., Art. 42.

[R. S., Sec. 2169.] Register of laws to be kept by Secretary of State. R. C. C., Art. 6.

[What Not Necessary for Promulgation.]

[R. S., Sec. 2170.] The duties now imposed on the clerks of the courts of this State to insert in a register, to be kept for that purpose, the title of the laws, which shall have been directed to them, together with the day on which they shall have received them, shall not be considered as necessary to the promulgation of such laws.

[R. S., Sec. 2171.] Statutes and Digests of other States are *prima facie* evidence. R. S., Sec. 1440, Title "Evidence."

[R. S., Sec. 2172.] Common Law of England to obtain in construing crimes. R. S., Sec. 976, Title "Criminal Law."

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## LEGITIMACY.

[Modes of Legitimating.]

[R. S., Sec. 2173.] That so much of the article two hundred and seventeen as abolishes all other modes of legitimization except that by marriage, be, and the same is hereby repealed, and that law seventh, title fifteenth, of the fourth Partidas, which was repealed by said Article of the Code be and the same is hereby revived; and that natural fathers and mothers shall have power to legitimate their natural children, by acts declaratory of their intentions, made before a notary and two witnesses. Nothing herein contained shall be so construed as to prevent a white parent from legitimating a colored child, nor to prevent a person of color from legitimating his colored children; provided, that natural children are the issue of parents who might, at the time of conception, have contracted marriage; and, provided, that there do not exist, on the part of the parent legitimating his natural offspring, ascendants or legitimate descendants.

Another way of legitimating natural children is, where a father declares by writing executed by his own hand, or which he causes to be executed by a Notary Public, and attested by three witnesses, that he acknowledges such a one for his son, designating him expressly by name. But in such acknowledgment the father ought not to say he is his natural son; for if he does, the legitimization will have no effect. Likewise, where a man has several children by a concubine (*amiga*) and he acknowledges only one of them in writing, in the manner above mentioned, by such acknowledgment, the other brothers and sisters will be legitimated, though no mention be made of them, so far as to enable them to inherit the estate of their father, as effectually as the one whose name is mentioned in the writing. And what we say in this and the preceding laws, is to be so understood that they who

are therein mentioned as being legitimated, can inherit both the estates of their fathers and other relations.

**Note.** Children conceived at a time when the parents were prohibited from contracting marriage on account of difference of race, may after being duly acknowledged be legitimated and given the rights of heirs, by the marriage of their parents, celebrated after the impediment has been removed by law. *Suc. of Caldwell*, 34 A. 265, (the question is very fully considered). See *Marrionneaux vs. Dupuy*, 48 A. 469 and criticism of the decision in *Davenport vs. Davenport*, 116 L. 1014. A white man may acknowledge and legitimate children who are born to his colored concubine (citing this act *Suc. of Yorst*, 103 L. 309 *Davenport vs. Davenport* 116 L. 1000), although act 54, 1894 prohibits the marriage between white persons and persons of color. *Suc. of Segura*, 134 L. 84. (See note to Act 68, 1870 infra).

## LEGITIMATION BY NATURAL PARENTS.

Act 68 of 1870, p. 96.

### TITLE.

AN ACT to authorize natural parents to legitimate their natural children.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That natural fathers and mothers shall have power to legitimate their natural children, by acts declaratory of their intentions, made before a notary public and two witnesses; provided, that there existed at the time of the conception of such children, no other legal impediments to the inter-marriage of their natural father and mother except those resulting from color or the institution of slavery.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act, except an act entitled an act relative to marriages, approved November fifth, one thousand eight hundred and sixty-eight, be and the same are hereby repealed.

Sec. 3. Be it further enacted, etc., That this act shall take effect from and after its passage.

**Note.** *Davenport vs. Davenport*, 116 L. 1000. The child of a woman slave by a white man is a bastard and cannot inherit the succession of the mother opened in the State of Louisiana, since the adoption of Act 54, 1894, prohibiting marriage between white persons and persons of color. Act 68 of 1870 has no application to a case where the parents have not availed themselves of the benefit of the statute. *Suc. of Davis*, 126 L. 178. See *Suc. Sigura*, 134 L. 84.

[R. S., Secs. 2174 to 2178, inclusive.] Relate to legalization of private or religious marriages, their force and effect. Benefit of law of acquests and gains. That no distinction shall be made because of race and color and legalization of consensual marriages. See R. S., Secs. 2212 to 2216, inclusive, Title "Marriage."

## LIBRARY.

### [State Library Established.]

[R. S., Sec. 2179.] There shall be established a public Library of the State of Louisiana, which shall be placed in the State House.

### [Appointment of Librarian and Assistant.]

[R. S., Sec. 2180.] (As amended by Act 51, 1873, p. 105.) It shall be the duty of the Secretary of State, immediately after the passage of this act, to employ a competent Librarian at an

annual salary not to exceed two thousand dollars, and an assistant Librarian at an annual salary not to exceed eighteen hundred dollars, and both Librarian and assistant shall be required to enter into good and solvent bond in the sum of five thousand dollars with the Governor of the State for the faithful performance of their respective duties.

### **ADDITIONAL ASSISTANT LIBRARIAN.**

**Act 198 of 1902, p. 384.**

#### **TITLE.**

**AN ACT** to authorize the Secretary of State to employ an additional Assistant State Librarian; to fix the salary thereof and making an annual appropriation for the payment of same.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the Secretary of State is hereby authorized to employ an additional Assistant State Librarian, at a salary of fifty dollars per month.

**Sec. 2.** Be it further enacted, etc., That the sum of six hundred dollars (\$600.00) be and the same is hereby appropriated out of any funds in the Treasury not otherwise appropriated for the payment of said salary for the year commencing July 1, 1902.

**Sec. 3.** Be it further enacted, etc., That the sum of six hundred dollars (\$600.00) be and the same is hereby appropriated out of any fund in the Treasury, not otherwise appropriated, for the payment of said salary for the year commencing July 1, 1903.

#### **[Bond of Librarian.]**

**[R. S., Sec. 2181.]** Before entering upon the duties of his office, the Librarian shall give bond to the State of Louisiana, in the sum of five thousand dollars, with sufficient security to the satisfaction of the Governor, and conditioned, as the law directs, for the faithful performance of his duties, and the proper care and custody of the books and papers delivered to him. The bond shall be deposited in the office of the Secretary of State.

#### **[Inventory to be Made.]**

**[R. S., Sec. 2182.]** Before the Librarian shall take possession of the State Library, an inventory shall be taken of the books and papers, clearly and distinctly setting forth all the printed books and the manuscripts which shall be placed under the care and custody of the Librarian. The inventory shall be taken under the inspection of the Secretary of State and State Treasurer.

#### **[Number of Copies of Inventory.]**

**[R. S., Sec. 2183.]** Two copies of said inventory shall be made, both certified to be correct by the signatures of the Secretary of State, of the Librarian, and of the State Treasurer. One of said copies shall be deposited in the office of the Secretary of State, and the Librarian shall retain the other.

#### **[All Books, Etc., to be in Charge of Librarian.]**

**[R. S., Sec. 2184.]** All books, statutes, manuscripts, plans, maps, papers, and documents of every description belonging to

the State, shall be placed under the charge and responsibility of the said Librarian, and the rooms now occupied by the Library and such other rooms as may be needed, shall be exclusively employed for its use.

**[Preparation of Catalogues.]**

[R. S., Sec. 2185.] In addition to the inventory required to be made, it shall be the duty of the Librarian, immediately after his appointment, to make two exact catalogues, so as to class separately, the books and documents which are to be preserved, from those which are to be distributed or for sale.

**[Rules to be Established by Secretary of State.]**

[R. S., Sec. 2186.] The Secretary of State shall establish such rules, regulations and restrictions, not inconsistent with law, in relation to the Library, as he may deem proper, and from time to time, alter and amend the same.

**[Attendance of Librarian.]**

[R. S., Sec. 2187.] (As amended by Act 289, 1914, p. 595.) It shall be the duty of the Librarian to attend every day, Sundays and legal holidays excepted, and to see that library confided to his care shall suffer no injury, and in case of neglect or inattention to his duties, the Secretary of State shall forthwith remove him.

**[Hours When Library Shall Be Open.]**

[R. S., Sec. 2188.] (As amended by Act 289, 1914, p. 595.) The Librarian shall keep the library open daily from eight o'clock a. m. to five o'clock p. m., Sundays and legal holidays excepted.

**[Return of Books by Librarian on Retiring From Office.]**

[R. S., Sec. 2189.] The Librarian, on retiring from office, shall be bound to account for all the books and papers which may have been mentioned in the inventory, and such as he may have received since; and in case the books cannot be accounted for, or procured, he shall pay such sum, not exceeding the amount of the bond, as by the Secretary and Treasurer of State shall be deemed a sufficient compensation for the loss of such books.

**[Library Free to All Citizens of State.]**

[R. S., Sec. 2190.] Every citizen of this State shall have free access to the Library, provided no book be taken out of the same, except when for the use of either branch of the Legislature.

**[Librarian Authorized to Make Exchanges.]**

[R. S., Sec. 2191.] The State Librarian is authorized, under the direction of the Secretary of State, to exchange with the several States of this Union, or with any foreign government, scientific institute, or person, any books of this State: such as Reports of the Supreme Court, Codes, Digests, Statutes, etc., for other books.

**[Duties, Etc., of Secretary of State.]**

**[R .S., Sec. 2192.]** All the books of the State, those for distribution among the courts and parishes, and the public officers, as well as those remaining permanently in the State Library, shall be placed under the control of the Secretary of State, who shall direct and see that this duty is performed by the State Librarian.

**[R .S., Sec. 2193.]** Provides for the purchase of Acts 1868, etc., the Statutes, Journals, etc., Fuqua's Civil Code and Code of Practice, and seventy-five copies of the Fourteenth Annual. Obsolete.

**[Distribution of Acts and Journals.]**

**[R .S., Sec. 2194.]** (As amended by Act 23, 1902, p. 32.) That the Secretary of State be and he is hereby instructed to deliver or forward by mail or express or otherwise, prepaid, to each officer and member of the General Assembly a copy of the current acts, and journals of the House and Senate. He shall cause to be delivered to each of the Court of Appeals, Circuit and District Courts of the United States in and for the State of Louisiana, one copy of the acts and one copy of the Supreme Court reports; to the Clerk of the Supreme Court of the State, for use of said Court, seven copies of the acts and journals and of the reports of the Supreme Court, and to the Clerk of each District Court throughout the State, one copy of said acts and reports of the Supreme Court for the use of the said Courts.

He shall cause to be delivered to each of the following officers, to-wit: The Recorder of Mortgages, Register of Conveyances, President of the State and City Boards of Health at New Drleans, Mayor of cities, towns and incorporated villages, Presidents of Police Juries, of School Boards and Levee Boards, Assessors and State Tax Collectors, Presidents of State Universities, Industrial Institutes, Blind Institute, Deaf and Dumb Institute, Insane Asylum, Charity Hospital, Leper Hospital, Gulf Biological Station, and to Fisk Free Library, Howard Memorial Library, and other public libraries in Louisiana, and to each State officer and justice of the peace, one copy each of the said acts.

**[Ownership and Preservation of Books.]**

**[R .S., Sec. 2195.]** All books so distributed to State or other officers, except to members of the Legislature, shall be and remain the property of the State of Louisiana, and such books shall be for the use of the office, and shall be by the officer receiving them delivered over to his successor in office except in case of the removal or resignation of such officer, he shall deliver such books forthwith to the clerk of the district court, in the parish in which his said office is located, taking a receipt therefor from such successor or clerk, which said receipt or a copy thereof duly certified by such clerk, shall be filed in the office of the Secretary of State by such clerk or successor so receiving the same. It shall be proper for the Secretary of State to cause to be delivered all

books herein authorized to be distributed to parish, city or town officers, to the clerk of the district court in and for the parish in which such offices are located, to be by such clerk delivered to such officers, and such clerk shall take a receipt for all books so delivered from the officer receiving the same, and file a certified copy thereof in the office of the Secretary of State. Any person neglecting or refusing to so deliver such books to his successor in office, or to the clerk of the district court, as hereinbefore provided, after demand thereof made, shall be subject to a fine of fifteen dollars for each and every book so withheld, to be recovered before any parish judge, with costs of suit, at the complaint of such successor, or clerk, or the district or parish attorney, to be prosecuted on request by the district or parish attorney.

[Books to be Marked and Recorded.]

[R. S., Sec. 2196.] The Secretary of State shall cause to be marked in a proper manner upon the outer cover of each book distributed, the name of the State of Louisiana, and for what use such book is intended. The Secretary of State shall keep a record of all books so distributed, to what officers, when and for what purpose distributed, and he shall take a receipt therefor from the person to whom the same are delivered. He shall furnish to each person hereafter elected or appointed to any office entitling such person to the receipt of any book or books, under the foregoing provisions of this act, within a reasonable time after the election or appointment of such person to such office, a certified list under the seal of State, of all books to which such person is, by the provisions of this act, entitled.

[Exchange With Other States.]

[R. S., Sec. 2197.] The Secretary of State shall transmit free of postage to the library of Congress, to the Smithsonian Institute, and to the Governor of each State and Territory of the United States, a copy of each such acts, journals, documents, Civil Code, Code of Practice, Revised Statutes, and such reports of the decisions of the Supreme Court as may be necessary to complete their sets of the same, accompanied with a request of a similar favor and like return to be made to the Governor of this State of the laws, documents and reports of the United States and of the respective States and Territories.

[Disposition of Books Not Distributed.]

[R. S., Sec. 2198.] The remainder of said books not so distributed as aforesaid, shall be deposited in the State Library, five copies whereof shall not be permitted to be taken from the library; the remaining copies only for the use of the members of the Legislature and State officers on their receipt therefor duly given, and in such case shall not be removed from the State buildings, but shall be returned to the library at the close of the session of the then Legislature, or within one week from the date of such removal.

The Secretary of State is hereby authorized to sell such copies, more than twenty, remaining after distribution, made as aforesaid, and the proceeds of such sales shall be used in the purchase of books for the library.

[R. S., Secs. 2199, 2200.] Act 49, 1877, p. 68, repeals R. S., Secs. 3002, 3003, which are identical with Secs. 2199, 2200.

[R. S., Sec. 2201.] Appropriation to carry out the provisions of Act 97, 1869, now Secs. 2193-2201.

## PUBLIC LIBRARIES.

Act 149 of 1910, p. 227.

### TITLE.

AN ACT to aid public education by providing a general library law for the State, except as to cities of over one hundred thousand inhabitants and as to libraries and library boards already in existence; providing for the creation, establishment, maintenance and equipment of libraries throughout the State; providing for the creation, commissioning and appointment of library boards, defining their duties and powers and authority, and repealing all laws or parts of laws in conflict here-with.

### PETITION TO ESTABLISH PUBLIC LIBRARIES.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever not less than twenty-five (25) citizens of any parish, city, town, village or political subdivision of this State shall desire to create, establish, maintain and equip a public library in such parish, city, town, village or other political subdivision, that such citizens shall address a petition or memorial, signed by such petitioners or memorialists, to the police jury, city council or other governing authority of such parish, city, town, village or other political subdivision, petitioning and memorializing them to create, establish, maintain and equip a public library in such parish, city, town, village or other political subdivision.

### ACTION BY POLICE JURIES, ETC.

Sec. 2. Be it further enacted, etc., That upon the said petition or memorial being favorably acted upon by such police jury, city council or other governing authority, it shall be promulgated in the same manner that resolutions or ordinances of such police jury, city council or other governing authority is published and promulgated, and if within thirty days from the last day of such promulgation or publication of such petition, a number of citizens equaling or exceeding the number contained in the petition or memorial praying for the creation of said library of such parish, city, town, village or other political subdivision do not by written protest, signed by such protestants, protest against the erection, creation, maintenance and equipment of such public library, in such political subdivision, the said police jury, city council or other governing authority of such political subdivision shall have full power and authority to appropriate and set aside, out of any money or monies in the treasury of such political subdivision not otherwise appropriated, a sufficient sum for the erection, creation and equipment of such public library and shall have full power and authority to appropriate and provide for the maintenance of such library.

### COMMISSION TO BE NAMED BY POLICE JURY, ETC.

Sec. 3. Be it further enacted, etc., That the police jury, city council or other governing authority, shall, at the same time and by the same ordinance as the appropriation for the erection, establishment, equipment of

such library is made, as provided in Section 2 hereof, nominate, appoint and commission a Board of Control thereof, to be composed of not less than five or more than seven members, said members to be citizens of the city, town, or village or other political subdivision of this State appropriating such money for said library, which Board of Control, after taking an oath to well and faithfully perform their duties as members of such Board of Control, shall be vested with full control and supervision of the erection, establishment, maintenance and equipment of such library, and shall, at its first meeting after its appointment and qualification, elect one of its members as chairman, another as secretary and a third as treasurer, provided that the treasurer so elected shall furnish bond, with good and solvent surety conditioned for the faithful performance of his duties, and provided that such bond shall be in an amount to be determined by such board, provided that such bond shall not be for a less amount than is appropriated by the police jury, city council or other governing authority for such library.

**BOARD OF CONTROL, TERM OF OFFICE.**

Sec. 4. Be it further enacted, etc., That such Board of Control so appointed and commissioned shall be appointed and commissioned for a term of six years from the date of their appointment, provided that the first board appointed and commissioned under this act shall consist of six members, two to be appointed and commissioned for two years, two to be appointed and commissioned for four years, and two to be appointed and commissioned for six years, and provided further that no officer of such board or any member thereof shall ever receive any remuneration whatsoever from said library or the funds appropriated for same. That said Board of Control shall have power and authority to make all necessary rules, regulations and by-laws for the proper governing of such library and for their own body, that they shall have exclusive control of the expenditure of all funds appropriated, donated or acquired in any other way, provided that all sums proposed to be expended over five hundred dollars shall be first submitted to and approved by the police jury or other governing authority of such political subdivision. That vacancies in said board, from whatsoever cause shall be filled in the same manner as the original members thereof were appointed and commissioned.

**EXPENSES—TITLE TO LIBRARY.**

Sec. 5. Be it further enacted, etc., That all sums to be expended by said Board shall only be withdrawn from its treasury upon the warrant of the treasurer, approved by the chairman and countersigned by the secretary; that such Board of Control shall have power and authority to purchase or otherwise acquire, title to real estate whereon to establish such library, provided that the title to same shall be vested in such parish, city, town, village or other political subdivision appropriating the funds for the same, and provided that such Board of Control shall not, in any one year, create debts for more than the estimated revenues of such board for one year's time, except that property donated or given to such board need not be calculated in, or estimated as the annual estimated revenues thereof.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 6. Be it further enacted, etc., That this act shall take effect from and after its promulgation and shall not apply to libraries or library boards already in existence, or to cities, towns or villages of over one thousand inhabitants.

**REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## LIQUOR LAWS.

### SHATTUCK BILL TO REGULATE BARROOMS, ETC.

#### Act 176 of 1908, p. 236.

##### TITLE.

AN ACT to regulate and license the business of conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden or other place where alcoholic or spirituous, vinous and malt liquors or intoxicating beverages, bitters or medicinal preparations of any kind are sold, directly or indirectly, in quantities of less than five gallons, and to provide penalties for violations of this Act; to limit the effect and operation of this Act to cities, towns, villages and parishes of the State of Louisiana where the sale of liquor is permitted; to prevent this act from affecting, modifying, amending or repealing any local option laws; or from interfering with or preventing the exercise of local option on the liquor traffic; to prevent this Act from affecting, modifying, amending or repealing any existing special or local Act or Acts prohibiting or restricting the sale of liquor from or within any locality or localities in this State.

##### FIXING THE LICENSES FOR SELLING INTOXICATING LIQUORS; MINIMUM \$200, HALF WHERE ONLY BEER OR WINE IS SOLD.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That hereafter for every business of conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden or other place where spirituous, vinous or malt liquors, or intoxicating beverages, bitters or medicinal preparations of any kind, are sold, directly or indirectly, in quantities of less than five gallons, the license shall be based on the annual gross receipts of said business, as follows; to wit:

First Class: When said gross annual receipts are \$50,000 or more, the license shall be \$1,600.

Second Class: When said gross annual receipts are \$40,000, or more, and less than \$50,000, the license shall be \$1,400.

Third Class: When said gross annual receipts are \$30,000, or more, and less than \$40,000, the license shall be \$1,200.

Fourth Class: When said gross annual receipts are \$20,000, or more, and less than \$30,000, the license shall be \$900.

Fifth Class: When said gross annual receipts are \$10,000, or more, and less than \$2,000, the license shall be \$600.

Sixth Class: When said gross annual receipts are \$5,000, or more, and less than \$10,000, the license shall be \$400.

Seventh Class: When said gross annual receipts are less than \$5,000, the license shall be \$200.

Provided, That no license shall be charged for selling refreshments for charitable or religious purposes; provided, further, that no establishment selling or giving away or otherwise disposing of spirits, wines, or alcoholic or malt liquors in less quantities than five gallons shall pay a license of less than \$200; provided, further, that for the business of selling malt and vinous liquors exclusively in quantities less than five gallons, the license shall be one-half of that above provided for the general sale of alcoholic beverages; provided, further, that nothing in this Act shall be so construed as to exempt druggists who sell alcoholic, vinous or malt liquors or other intoxicating beverages on the prescription of a physician or otherwise from the payment of the license herein imposed; provided, further, that this Act shall not apply to the sale by druggists of tinctures or drug compounds in the preparation of which such liquors or intoxicating beverages are used and sold on the prescription of a physician or otherwise and which tinctures and compounds are not intoxicating beverages prepared in the evasion of this Act nor of the local option law.

**Note.**—One who conducts a barroom in each of two buildings—one being for white persons and the other for negroes—owes two licenses. One conducting the two barrooms in separate apartments in the same building does not owe a license at all, for his conducting the business in violation of law, and should be compelled to desist and punished as the law directs. *State ex rel Tax Collector vs. Falkenheimer*, 123 L. 617.

**MINIMUM PARISH OR MUNICIPAL LICENSE, \$500.00; ONE-HALF ONLY FOR BEER OR WINE.**

**Sec. 2.** Be it further enacted, etc., That it is hereby made the duty of the Police Juries of the several parishes throughout the State, of the City Councils and Boards of Aldermen of the various cities, towns and villages, throughout the State, to levy and collect a license of not less than \$500, on the business of operating a barroom, cabaret, cafe, coffee house, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden, or other place, where spirituous, vinous or malt liquors are sold, directly or indirectly; provided, that for the business of selling malt and vinous liquors exclusively the said authorities shall not levy and collect a license of more than one-half of that provided for the general sale of alcoholic beverages as set forth in Section 1 of this Act.

**MAKING IT A MISDEMEANOR TO SELL LIQUOR WITHOUT A LICENSE.**

**Sec. 3.** Be it further enacted, etc., That no person shall sell spirituous, alcoholic, vinous or malt liquors, capable of producing intoxication, or conduct a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange drinking saloon, grog shop, beer house, beer garden or other place where alcoholic, spirituous, vinous or malt liquors, or intoxicating beverages, or bitters, or medicinal preparations of any kind, are sold, directly or indirectly, in quantities of less than five gallons, without taking out a license for such business. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment in the parish jail or parish prison for a term not exceeding two (2) years, or by both such fine and imprisonment.

**REQUIRING PARTITION BETWEEN BARROOM AND GROCERY; NO ENTRANCE EXCEPT FROM STREET.**

**Sec. 4.** Be it further enacted, etc., That hereafter it shall be unlawful for any person, firm or corporation, to conduct a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden or other place where spirituous, vinous or malt liquors, or intoxicating beverages are sold, directly or indirectly, in quantities of less than five gallons, in connection with or as a part of a grocery unless such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house beer garden or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold directly or indirectly in quantities of less than five gallons, is separated from the grocery by a solid partition reaching from the floor to the ceiling, with a double acting door behind the counter, fitting the door frame, for the use and convenience of the proprietor and his male help only; provided, further, that the provisions of this section shall not apply to groceries where liquor is sold in the original package and by measure and is not consumed on the premises; provided, further, that there shall be no entrance from such grocery into such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold, directly or indirectly, in quantities of less than five gallons; and the entrance into such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold, directly or indirectly, in quantities of less than five gallons, shall be from the street only.

Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, be punished

by a fine of not less than \$50, nor more than \$500, or by imprisonment in the parish jail or parish prison for a term not exceeding two years, or by both such fine and imprisonment.

**NO LICENSE TO WOMEN.**

Sec. 5. (As amended by Act 220, 1916, p. 472). Be it further enacted, etc., That hereafter no license as a Retail Liquor Dealer, or as a Retail Malt and Vinous Liquor Dealer, shall be issued to any woman; and no person, firm or corporation conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog-shop, beer house, beer garden, or other places where spirituous, vinous or malt liquors or intoxicating beverages are sold in this State, shall employ any woman or girl, or minor, to serve any intoxicating or non-intoxicating liquors or permit any woman, girl or minor to serve intoxicating or non-intoxicating liquors in any barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grogshop, beer house or beer garden or other place, where spirituous, vinous or malt liquors or intoxicating beverages are sold.

**PENALTIES IMPOSED.**

Sec. 2. (Act 220, 1916, p. 422), Be it further enacted, etc., That any person violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine in a sum not less than \$50, nor more than \$500, or be imprisoned in the parish jail or parish prison for not more than two (2) years, or by both such fine and imprisonment.

Note. Before the amendment of 1916, the Section did not authorize the prosecution of the proprietor of a saloon for permitting a woman or minor to serve in the barroom. State vs. Trapp, 140 L. 426.

**PROHIBITING THE SALE OF LIQUOR TO MINORS AND WOMEN, TO WHITES AND NEGROES ON SAME PREMISES.**

Sec. 6. (As amended by Act 21, 1910, p. 32). Be it further enacted, etc., That hereafter it shall be unlawful for any person, firm or corporation, conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden, or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold, in this State, to sell or permit to be sold or to give or permit to be given, any intoxicating liquors to women, or girls, or minors, or to set apart in such places any apartment where intoxicating liquors are sold to girls or women, or minors, or to permit girls or women, or minors, to enter or drink in any such apartment; provided, that nothing in the foregoing part of this section shall apply to hotels, boarding houses or restaurants where malt, vinous or other liquors are sold in connection with the service of meals or supplied to guests.

That hereafter it shall be unlawful for any person, firm or corporation conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden, or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold, to permit in the same building the sale for consumption on the premises of intoxicating liquors to persons of the Caucasian and colored races.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, be fined in a sum not less than \$50 nor more than \$500, or by imprisonment in the parish jail or parish prison for not more than two (2) years, or by both such fine and imprisonment.

Note. The law does not permit the conduct of separate salons for white persons and negroes in the same building. Separate apartments in the same building does not comply with the law, which requires separate buildings. State ex rel Tax Collector vs. Falkenheimer, 123 L. 617. The accused was convicted and sentenced to pay a fine of \$500 and to imprisonment for two years, and in default of payment of fine and costs to imprisonment for another year. Held that the law did not permit the additional imprisonment for failure to pay fine, etc. State vs. Anderson, 125 L. 779. A motion in arrest of judgment, filed however before judgment was rendered averred that this act had been repealed by Act 21, 1910, that it was unconstitutional, etc., etc. The motion was sustained in the court below and the appeal of the State to the Supreme Court dismissed for want of jurisdiction. State vs. Kramer, 127 L. 1033.

**SELLING LIQUOR TO MINORS AND WOMEN OR PERMITTING GAMBLING ON PREMISES WHERE LIQUOR IS SOLD.**

**Sec. 7.** (As amended by Act 21, 1910, p. 32). Be it further enacted, etc., That any person, firm or corporation, having a license to conduct a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden, or other place where spirituous, vinous or malt liquors, or intoxicating beverages are sold, who shall be convicted of selling or permitting to be sold, or giving or permitting to be given, any intoxicating liquors to women, girls, or minors, or of setting apart in such places any apartment where intoxicating liquors are sold to women, girls or minors, or of permitting women, girls or minors to enter or drink in such apartment, except as provided in Section 6 of this Act, or of permitting any game prohibited by law to be played, dealt or exhibited in such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange drinking saloon, grog shop, beer house, beer garden, or other place where spirituous, vinous or malt liquors, or intoxicating beverages are sold, or of renting or letting such places or any part thereof for such purpose or purposes, or of permitting the sale of liquors for consumption in the same building to persons of the Caucasian and colored races shall, in addition to the punishment prescribed in Section 6 of this Act, be permanently deprived thereafter of the privilege of conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house, beer garden, or other place where spirituous, vinous or malt liquors, or intoxicating beverages are sold; and the revocation of said privilege shall be declared by the court having jurisdiction to impose the penalties fixed by Section 6 of this Act.

Note. The defendant was prosecuted in the juvenile court for violating Sec. 10 of the Act, the other for selling, etc., intoxicating liquors to a minor aged sixteen. The cases were by agreement tried together. There were two judgments one on each charge. Held, that the license was properly revoked. State vs. Apfel, 124 L. 649.

The affidavit charging the second offense should refer to the first conviction or a revocation of license cannot be sustained on the a davit in the second case. State vs. Compagno, 125 L. 669.

The court is not authorized to revoke or annul the license or permit of the accused the sentence should merely provide in the language of the statute, or its equivalent that "accused be permanently deprived" etc.—and it is improper to confine the deprivation to a single parish, it should extent over the entire State. State vs. Biggio, 141 L. 323.

**MANNER OF MAKING APPLICATION AND PETITIONING FOR A LICENSE, MAJORITY OF PROPERTY HOLDERS REQUIRED.**

**Sec. 8.** Be it further enacted, etc., That any person or firm desiring to conduct a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, and desiring a license to conduct such business in any locality within this State, prior to the issuance to him of any license by either State, town, parish or municipal authorities, shall, where such barroom, cabaret, coffee house, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden is to be located in any incorporated city or town of this State, address a sworn petition to the city council or board of aldermen of such incorporated city or town, and in cases where such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden is to be located in this State outside of the limits of incorporated cities or towns, shall address a petition to the police jury of the parish in which such establishment is to be located, which shall state the location of the places, and in cities and towns the street and the number in which it is intended that such establishment shall be conducted; the name and place of the residence of the person or persons applying for the license, or, if the applicant is a firm or corporation, the style of the firm or name of the corporation and the names and places of residence of the individual members of the firm or the officers and stockholders of such corporation, as the case may be, and shall contain allegations that such person or persons, or officers or stockholders in such corporation, are citizens of the State of Louisiana, law abiding and of good moral character, and that such person, firm or corporation, or any member, officer or stockholder thereof is not disqualified under the provisions of this Act regulating and affecting the sale of intoxicating liquors from

engaging in said business. This petition must be accompanied by the affidavit of two reputable citizens of this State, domiciled at the place where such applicant desires to locate his establishment, vouching for the truth of all the allegations contained in applicant's petition, as hereinabove specified. Notice of the filing of this petition, setting forth the name of the applicant the place where he intends to locate his establishment, shall be published during ten days in a daily newspaper, published at the place where said establishment is intended to be located, or if there be no daily newspaper published at said place, in that case said notice shall be published three times in a weekly newspaper; and after said publication, and upon due proof thereof, said city councils or boards of aldermen or police juries shall proceed to pass upon said application. The ordinances of the city councils or boards of aldermen, or the resolutions of the police juries granting applicant such permission shall be applicant's warrant for obtaining a license from the State, parish, municipal or town authorities after paying for the license according to the classification contained in this Act. If, however, an opposition is filed to an applicant's petition, the city councils or boards of aldermen or police juries, shall hear the parties contradictorily, and in a summary manner and with as little delay as possible and dispose of the matter accordingly.

No council or board of aldermen of any incorporated city or town of this State shall grant any privilege for the opening of any barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, except upon the written consent of a majority of the bona fide property owners, or their agents, within three hundred feet measured along the street fronts of the proposed location of such barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden; provided, that the council or board of aldermen shall have power and authority to refuse to grant any such privilege even when accompanied by the written consent of the property owners or their agents aforesaid, whenever the council or board of aldermen shall deem such refusal advisable.

The council or board of aldermen shall revoke any privilege on the petition of a like number of persons, any prior privilege to the contrary notwithstanding.

No council or board of aldermen or police jury shall grant any privilege for the opening of any barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, within three hundred feet of any church, or of any school where children are taught.

Any person firm or corporation hereafter conducting any barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, who shall conduct such place without the permit or privilege required by this section, or who shall violate any of the provisions of this Act shall, be deemed guilty of a misdemeanor and upon conviction thereof, be fined in a sum of not less than \$50 nor more than \$500, or by imprisonment in the parish jail or parish prison for not more than two (2) years, or by both such fine and imprisonment, and shall upon a second conviction for violation of this section, or any of the provisions of this Act, be permanently deprived thereafter of the privilege of conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden; and the revocation of said permit or privilege shall be declared by the court having jurisdiction to impose the penalties fixed by this Act.

*Note.* One operating a barroom under a permit granted him before the enactment of this statute does not need to obtain another permit after its enactment. *State vs. Grunewald*, 123 L. 527; *State vs. Lewis*, 133 L. 540.

To falsely make oath before a notary to obtain a license to conduct a saloon is not perjury. *State vs. Parrish*, 129 L. 547.

The right to maintain a particular barroom within 300 feet of a church or school, can be determined only in a suit by the State, it cannot be raised by an attempt to enjoin the Police Jury from revoking a license. *Sennette vs. Police Jury*, 129 L. 728.

This section is not applicable to a social club. *State ex rel Boston Club vs. Fitzpatrick*, 131 L. 1080.

**PERSONS CONVICTED OF FELONY INELIGIBLE TO HOLD LICENSE.**

**Sec. 9.** Be it further enacted, etc., That any person who has previously been convicted by the courts of this or of any other State of felony shall be incompetent to hold or obtain a license as a retail liquor dealer or as a retail malt and vinous liquor dealer from this State, or from any of the subdivisions of this State.

**MAKING IT UNLAWFUL TO HAVE MUSIC, ETC., IN BARROOMS, EXCEPTIONS—VULGAR PICTURES PROHIBITED.**

**Sec. 10.** Be it further enacted, etc., That it shall be unlawful for any person conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden to use, exhibit, keep or suffer to be kept in such place any piano, organ, or other musical instrument whatever, for the purpose of performing upon or having same performed upon in such places except in public parks and open air places, of public resort and recreation and in regularly licensed theatres and restaurants where liquor is sold in connection with the service of meals or to permit any sparring, boxing, wrestling or any other exhibition or contest, or cock fight in such places or to set up, keep, use or permit to be kept, or use in, or run, or permit to be run, in or about, or in connection with any barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, or other place where spirituous, vinous or malt liquors, intoxicating beverages are sold in any form or manner whatever, any dice, gambling table or any other gambling device, or gambling with cards, dominoes or any other device.

It shall be unlawful for any person conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, or other place where spirituous, vinous or malt liquors or intoxicating beverages are sold, to exhibit or suffer to be kept in his place any immodest, vulgar or obscene pictures, books or papers, or any pictures, books or papers, or any mechanical contrivance containing same.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, be fined in a sum not less than \$50 nor more than \$500, or by imprisonment in the parish jail or parish prison for not more than two years, (2), or by both such fine and imprisonment.

Note. The defendant moved in arrest of judgment alleging that the rear of a barroom as set out in the affidavit is not a place in which gambling is prohibited. Held the alleged defect could not be considered, as it was cured by the verdict. *State vs. Apfel*, 124 L. 649.

**BREWERS AND DISTILLERS PROHIBITED FROM OBTAINING LICENSES.**

**Sec. 11.** Be it further enacted, etc., That it shall be unlawful for any firm, corporation or any officer, director or stockholder of any corporation engaged in the business of brewing or distilling, manufacturing or selling or distributing by wholesale of intoxicating liquors, to obtain a license for the business of conducting a barroom, cabaret, coffee house, cafe, beer saloon, liquor exchange, drinking saloon, grog shop, beer house or beer garden, or to be interested financially in any concern so engaged or to be the owner or lessee or to be interested in any lease of premises used for any such business under the provisions of this Act.

**AUTHORITIES MAY FIX LIMITS IN WHICH LIQUOR MAY BE SOLD.**

**Sec. 12.** Be it further enacted, etc., That the governing authorities of the villages, towns and cities of this State are hereby vested with authority to restrict the sale of spirituous, alcoholic, vinous and malt liquors to certain portions of such villages, towns and cities, and to make it unlawful for such liquors to be sold within certain designated sections thereof, as may be defined in the ordinance regulating that question.

**DELINQUENT LICENSES, ETC.; PENALTY FOR FALSE AFFIDAVIT.**

**Sec. 13.** Be it further enacted, etc., That the license imposed by this

Act shall be due and collectible and shall become delinquent at the same date, and in the same manner as provided by existing laws for licenses on other business, and the duties and compensation of tax collectors and ex-officio tax collectors and their attorneys shall be the same in regard to the collection of licenses imposed by this Act as are prescribed by existing laws relative to licenses on other businesses, and all existing laws providing for penalties for delinquency in the payment of licenses for proceedings, actions, suits, procedure, remedies, liens and privileges for the collection of licenses on other businesses shall have effect and apply to the collection of licenses imposed by this statute. Licenses imposed under this Act shall be posted and become prescribed as provided by existing laws for licenses on other businesses; and no license under this Act shall be issued to any person, firm or corporation except upon such affidavits as are required or authorized by existing laws relative to licenses on other businesses, and the penalties for false swearing, as to gross receipts of business under this statute shall be the same as provided for by existing laws relative to licenses on other businesses, and in addition thereto, if any person shall be adjudged guilty by any court of competent jurisdiction under any proceedings provided for by this statute of making false affidavits as to gross receipts of business, or shall be cast in a civil proceeding for the recovery of a license or additional license, such person shall be by said court permanently deprived thereafter of the privilege of conducting such business.

**PRESENT LOCAL OPTION LAWS NOT AFFECTED BY THIS ACT.**

Sec. 14. Be it further enacted, etc., That this Act shall only apply to cities, towns, villages and parishes of the State of Louisiana where the sale of liquor is permitted, and nothing in this Act shall be construed to affect, modify, amend or repeal any local option laws or to interfere with or prevent the exercise of local option on the liquor traffic, and that nothing in this Act shall be construed in any way or manner as affecting, amending, modifying or repealing any existing special or local Act or Acts prohibiting or restricting the sale of liquor from or within any locality or localities in this State.

Note. This act applies only to districts where the sale of liquor is permitted. State vs. Spence, 127 L. 336. It is not a local statute. State vs. Donato, 129 L. 394; State vs. Quinox, 136 L. 435 and see State vs. Crech, 107 L. 880; State vs. Nejin, 140 L. 793.

As there can be no lawful retailer of intoxicating liquor in a prohibition parish, local sales by a wholesale dealer to illicit vendors of liquor at retail, will be treated as unlawful sales to individuals State vs. Cunningham, 130 L. 749; State vs. Spence, 127 L. 336; — vs. Pomeranky, 130 L. 339; State vs. Foster, 130 L. 219; State vs. Monroe, 130 L. 450.

Form of indictment. State vs. Lawson, 136 L. 172.

The act is applicable and includes barrooms conducted on vessels plying between New Orleans and New York and trading at foreign ports, though no sales are made while the vessels are lying at the wharf in New Orleans but are made while in the river outward or inward bound. State vs. Southern Pac. Co., 137 L. 435.

**REPEALING CLAUSE.**

Sec. 15. Be it further enacted, etc., That subject to the limitations contained in Section 14 of this Act, all laws and parts of laws contrary to or inconsistent with this Act be and the same are hereby repealed.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 16. Be it further enacted, etc., That this Act shall take effect from and after December 31, 1908.

Note. Constitutionality. The act does not violate either the fourteenth amendment of the Constitution of the United States or articles two and 31 of the Constitution of the State. State ex rel Tax Collector vs. Falkenheimer et al, 123 L. 617.

Jurisdiction of Supreme Court.—The two members of a firm were each fined \$150 with costs and their license revoked. The court is without jurisdiction of an appeal from the sentences, for even if the two sums be added, it yet was not in excess of \$300 and costs for the loss imposed by the revocation of the license can be added to the fine. State vs. Price, 124 L. 97. The accused was sentenced to pay a fine of \$300; imprisonment in parish jail for six months and to a further six months in default of payment of fine. Held that the Supreme Court was without jurisdiction of defendants appeal. State vs. Hamilton, 128 L. 91. The forfeiture of the privilege to conduct a saloon forms no part of the fine or imprisonment for purposes of appellate jurisdiction. State vs. Trapp, 140 L. 425.

**Police Power.**—The act is not a Revenue act but a police regulation and is applicable to one who brings beer into the State from another State, and sells it in this State in the original packages containing less than five gallons, from the warehouse in which it is stored. *State vs. Pabst Brewing Co.* 128 L. 770. One importing wines and selling in quantities less than five gallons is liable for the tax, though the sales were made in the original packages from a warehouse. *State vs. DeBarry & Co.*, 130 L. 1090. The terms of the act do not cover a brewery which sells in quantities exceeding five gallons. *State vs. Annheuser Brewing Co.*, 134 L. 572.

## **PROHIBITING SALE, ETC., TO HABITUAL DRUNKARDS.**

**Act 102 of 1890, p. 118.**

### **TITLE.**

**AN ACT** to prohibit the sale or giving of alcoholic or intoxicating drinks to inebriates or habitual drunkards.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any person who shall wilfully sell or give to any inebriate, or habitual drunkard any alcoholic or intoxicating drink, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than ten dollars and not exceeding fifty dollars. In default of payment thereof, he shall be confined in the parish jail not less than five nor more than twenty days, and said penalty shall be incurred for each and every offense; provided, however, that the penalty shall not be incurred unless previous notice is given in person before witnesses, in writing or through the public prints, for fifteen days, that the person to whom the liquor or intoxicating drink is sold or given is an inebriate; the notice may be given by any member of the family or friend of the inebriate.

All laws or parts of laws now existing in conflict with the provisions of this bill are hereby repealed.

## **PROHIBITING EMPLOYMENT OF FEMALES TO SELL LIQUORS, ETC.**

**Act 43 of 1894, p. 49.**

### **TITLE.**

**AN ACT** making it a misdemeanor for any owner, proprietor, keeper or lessee, or agent, manager, or conductor or any Concert Hall, or saloon where spirituous liquors, wines or malt are sold at retail, to allow any females to dispense or distribute among the audience such liquors, wines or malt, and providing a penalty therefor.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no owner, proprietor, keeper, lessee or agent, manager or conductor of any concert hall or saloon where spirituous liquors, wines or malt are sold at retail shall employ or suffer to be employed any female to distribute or appear among the audience or frequenters of such concert hall or saloon for the purpose of distributing or selling or taking orders to be filled, any such spirituous liquors, wines or malt, and any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction shall be imprisoned in the parish jail not less than thirty days nor more than three months and a fine of not less than fifty nor more than one hundred dollars for each and every offense.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws contrary to and in conflict with this act be and the same are hereby repealed.

**SELLING OR GIVING LIQUOR TO MINORS, ETC.****Act 93 of 1906, p. 154.****TITLE.**

AN ACT to prohibit keepers of barrooms, drinking saloons, groggeries and coffee houses or any place where intoxicating or spirituous liquors are sold by the glass, bottle, gallon or in less quantities, from selling or giving intoxicating or spirituous liquors to minors; to prohibit all persons from receiving by gift or otherwise any intoxicating or spirituous liquors for the special use of a minor; and to prohibit keepers of barrooms, drinking saloons, groggeries, coffee houses or any other place where intoxicating or spirituous liquors are sold by the glass, bottle, gallon or in less quantities, from allowing minors in such place of business; and to prescribe penalties for violating the provisions of this Act.

**SELLING TO MINORS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no keeper of a bar-room, drinking saloon, grogillery, coffee house or any other place where intoxicating or spirituous liquors are sold by the glass, bottle, gallon or in less quantities, shall knowingly sell or give to any person under the age of twenty-one (21) years any intoxicating or spirituous liquors.

**SELLING, ETC., FOR USE OF MINORS NOT EMANCIPATED.**

Sec. 2. Be it further enacted, etc., That no person shall knowingly sell, buy or purchase or receive by gift or otherwise any intoxicating or spirituous liquors for the special use of any person under the age of twenty-one (21) years, unless he be fully emancipated under the laws of the State of Louisiana by the emancipation of eighteen years, or unless such minor present an order signed by his father, mother or tutor directing the sale or gift to be made.

**KNOWINGLY ALLOWING MINORS TO REMAIN ON PREMISES.**

Sec. 3. Be it further enacted, etc., That no person keeping a barroom, drinking saloon, grogillery, coffee house, or any other place where intoxicating or spirituous liquors are sold by the glass, bottle, gallon or in less quantities, shall knowingly allow any minor to remain in such place of business.

**PENALTIES IMPOSED.**

Sec. 4. Be it further enacted, etc., That whosoever shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor and upon trial and conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25), nor more than fifty dollars (\$50) for each separate offense.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict herewith be and the same are hereby repealed.

Note. Act 55, 1894, p. 64, is on the same subject matter, and repealed in fact, though not in terms.

**DRINKING LIQUORS ON RAILROAD TRAINS.****Act 79 of 1908, p. 93.****TITLE.**

AN ACT to prevent the drinking of intoxicating liquors of any kind on railway passenger trains, or coaches, or vestibules thereof or platforms connected therewith, while said train or coach is in the service of passenger transportation within this State; and providing a penalty therefor.

Section 1. Be it enacted by the General Assembly of the State of

Louisiana, That it shall be unlawful for any person to drink intoxicating liquors of any kind in or upon any railway passenger train, or coach, or closet, vestibule thereof or platform connected therewith while said train or coach is in the service of passenger transportation within this State.

Provided, that nothing in this Act shall be construed to prevent the use of intoxicating liquors as stimulants in case of actual sickness of the person using said stimulant.

**Sec. 2.** Be it further enacted, etc., That any person violating Section 1 of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not more than twenty-five dollars, or for default of paying fine shall be imprisoned for not more than 30 days.

**Sec. 3.** Be it further enacted, etc., That this law shall not apply to the drinking of liquor with meals on regular dining cars.

## **PROHIBITING PHYSICIANS TO PRESCRIBE LIQUORS TO EVADE PAYMENT OF LICENSE, ETC.**

**Act 85 of 1886, p. 124.**

### **TITLE.**

AN ACT making it a crime for any physician or practitioner of medicine to prescribe spirituous or intoxicating liquors with intent to evade, or with intent to assist others to evade, the payment of any license required by any State law or parochial or municipal ordinance for the sale of said spirituous or intoxicating liquors, or with intent to evade, or with intent to assist others to evade, any such law or ordinance prohibiting the sale of said spirituous or intoxicating liquors, and to prescribe the penalty therefor.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any physician or practitioner of medicine who shall prescribe spirituous or intoxicating liquors for any person with intent to evade, or with intent to assist others to evade the payment of any license required by any State law, or by any parochial or municipal ordinance, for the sale of said spirituous or intoxicating liquors, or with intent to evade, or with intent to assist others to evade any such law or ordinance prohibiting the sale of said spirituous or intoxicating liquors, shall be deemed guilty of a crime, and shall, upon conviction, be fined not less than one hundred, nor more than five hundred dollars, and be imprisoned not less than thirty days nor more than four months.

**Note.** The act is constitutional. State vs. Breaux, 122 L. 514. The act is applicable to both prohibition and non prohibition territory. Evidence, etc. State vs. Terry 128 L. 680. A druggist who in a prohibition district sells alcohol for medical purposes without a prescription violates the law. State vs. Tullus, 135 L. 640.

## **SELLING, ETC., LIQUOR ON DAY OF ELECTION.**

**Act 289 of 1910, p. 490.**

### **TITLE.**

AN ACT to carry out Article 205 of the Constitution of this State; to prohibit the selling, bartering or giving of malt, vinous, spirituous or intoxicating liquors, on the day of any election, or primary election, within one mile of any polling place; to provide penalties for the violation thereof, and to repeal Act No. 26 of 1880.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person, firm or corporation to sell, barter or give any malt, vinous, spirituous or intoxicating liquors, by drinks or otherwise, on the day of any election, or primary election, within one mile of any polling place.

**Sec. 2.** Be it further enacted, etc., That whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding sixty days, or both at the discretion of the court, for each and every offense.

**Sec. 3.** Be it further enacted, etc., That Act No. 26 of the General Assembly of the State of Louisiana, for the year 1880, and all laws in conflict herewith be and the same are hereby repealed.

### **KEEPING A "BLIND TIGER."**

**Act 8 of 1915 (E. S.), p. 15.**

#### **TITLE.**

**AN ACT** to amend and re-enact Act No. 146 of 1914, entitled "An Act to define and prohibit the keeping of a 'Blind Tiger'; to provide for the search of same, and for the seizure and destruction of any spirituous, malt or intoxicating liquor found therein; to provide for the punishment of any violations of this Act."

#### **DEFINITION OF "BLIND TIGER."**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That a "Blind Tiger" is hereby defined to be any place in those subdivisions of the State where the sale of spirituous, malt or intoxicating liquors is prohibited, where such spirituous, malt or intoxicating liquors are kept for sale, barter, or exchange or habitual giving away; or any place in those subdivisions of the State where the sale of spirituous, malt or intoxicating liquors is prohibited, where such spirituous, malt or intoxicating liquors are kept for sale, barter, exchange or habitual giving away in connection with any business conducted at such place.

#### **KEEPING A "BLIND TIGER" PROHIBITED.**

**Sec. 2.** Be it further enacted, etc., That the keeping of a "Blind Tiger" is hereby prohibited, and whoever shall be guilty of violating this act shall be guilty of a misdemeanor.

#### **RIGHT OF SEARCH OF SUSPECTED PLACE.**

**Sec. 3.** Be it further enacted, etc., That any place suspected of being a "Blind Tiger" shall be searched by an officer designated in a search warrant and any spirituous, malt or intoxicating liquor above described found therein shall by such officer be seized and brought before the Court issuing such warrant. The warrant may be issued by any court having power of a committing magistrate upon the filing in said court of an affidavit reciting the fact that affiant believes a certain designated place to be a "Blind Tiger", together with such additional evidence as the court may require, in order to make out a *prima facie* case. The officer to whom the search warrant is directed shall make his return thereon within twenty-four hours after it is issued and shall bring into court any spirituous, malt or intoxicating liquor herein above described he may have found together with all persons found in the place where said liquors may have been found. The court issuing said search warrant, if it be a Justice of the Peace, shall proceed without delay to examine the facts as a committing magistrate, and according to law, and if it be a District Judge or City Judge, it shall proceed to try the party or parties charged with keeping a "Blind Tiger" according to law.

#### **PENALTY.**

**Sec. 4.** Be it further enacted, etc., That whoever shall be found guilty of keeping a "Blind Tiger" in violation of this act shall be fined not less than two hundred dollars nor more than five hundred dollars and be imprisoned for not less than thirty days nor more than six months, and on default of the fine and costs, he shall be imprisoned for not more than six months additional, and the court shall order such liquors so found in such "Blind Tiger" destroyed.

#### **REPEALING CLAUSE.**

**Sec. 5.** Be it further enacted, etc., That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

*Note.* Act 40, 1908, p. 40, makng a U. S. Int. Revenue License prima facie evi-

dence, etc., after having been before the court a number of times, was finally declared unconstitutional in State vs. Wilson, 141 L. 404.

Connection with another business is not an element in keeping a "blind tiger" and need not be alleged in the information. A charge that the defendant kept a "blind tiger" in prohibition territory should be quashed, as it does not charge that the "blind tiger" which was kept, was the kind denounced by the statute. State vs. Barnette, 128 L. 693. An affidavit that the defendant "did unlawfully operate a blind tiger at Shreveport, Caddo Parish, La., in which parish and city, the sale of intoxicating liquor is prohibited, by then and there keeping intoxicating liquor for sale, barter, exchange or habitual giving away at the above mentioned place" held insufficient. The defendant is entitled to be informed before pleading for which of the acts charged he is to be tried. State vs. Nejin, 140 L. 38. What is a sufficient indictment. State vs. Garland, 140 L. 402.

The act is not repealed by Act 14 of 1916 (printed at p. 1180), State vs. Rigdon, 140 L. 681. City of Shreveport vs. Mackle, 140 L. 724.

This act, though amending Act 140, 1914 mentioned in the title, is nevertheless original and independent legislation, and not affected by the failure to mention the Act of 1914 in the body of the act. City vs. Nejin, 140 L. 785. (The opinion considers the act in its relation to municipal ordinances, constitutionality, etc., very fully). See also Vivian vs. Edwards, 140 L. 782; State vs. Nejin, 140 L. 928; State vs. Edwards, 141 La. 591.

## **SOLICITING, ETC., ORDERS FOR LIQUORS IN PROHIBITION DISTRICTS.**

**Act 46 of 1906, p. 61.**

### **TITLE.**

**AN ACT** to prohibit and punish the solicitation or receiving of orders for the purchase of intoxicating liquors within prohibition districts or parishes of the State of Louisiana.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person within the limits of any village, town, city ward or parish of this State in which the retailing of spirituous or intoxicating liquors is prohibited, to seek, solicit or receive orders from any one for the purchase of spirituous or intoxicating liquors.

**Sec. 2.** Be it further enacted, etc., That any person convicted of a violation of this Act shall be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding six months, or both, at the discretion of the Court.

**Sec. 3.** Be it further enacted that all laws or parts of laws in conflict with this Act are hereby repealed.

## **SELLING LIQUOR WITHIN TWENTY-FIVE MILES OF CAMP BEAUREGARD.**

**Act 20, E. S. 1918, p. 26.**

### **TITLE.**

**AN ACT** to prevent and prohibit, throughout the period in which the United States may be engaged in war, the sale, barter, exchange, or other traffic of or in spirituous, malt or vinous liquors, or medicated bitters capable of producing intoxication, within twenty-five (25) miles of Camp Beauregard, in the State of Louisiana, when and while said camp is being used for the training, quartering or holding of soldiers; to prevent and prohibit the transportation of such liquors into such territory; to prohibit the issuance of licenses for the sale of and traffic in such liquors within such territory, and to revoke and annul all such licenses in force; to provide punishments for the violation of the provisions of this Act, and to provide speedy trials for all prosecutions therefor; and, generally to provide for the suppression of all liquor traffic in said territory during the time in which the United States may be engaged in war, and when and while said Camp Beauregard is used for the purposes aforesaid.

Due notice having been given of the intention to apply for the passage of this Act by publication in the locality of Camp Beauregard, Louisiana,

stating the substance of the contemplated law, at least thirty days prior to the introduction into this General Assembly of this bill, and in the same manner provided by law for the advertisement of judicial sales; all in full compliance with Article 50 of the Constitution of 1913 of this State;

**SALE OF LIQUOR NEAR CAMP BEAUREGARD PROHIBITED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that, throughout the time in which the United States is engaged in war, the sale, barter, exchange or other traffic of or in spirituous, malt, or vinous liquors, or medicated bitters, capable of producing intoxication, within the radius of twenty-five miles of Camp Beauregard in the State of Louisiana, when and while said Camp Beauregard is being used for the training, quartering or holding of soldiers, is hereby prohibited and shall be unlawful, except as herein provided.

**TRANSPORTATION OF LIQUOR TO CAMP.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation, during the time the United States is engaged in war, to ship, or transport by or over any common carrier, express company or service car, any said liquors or medicated bitters into said twenty-five mile zone or territory, when and while said Camp Beauregard is being used for the purpose aforesaid, except as herein provided.

**CARRING OF LIQUOR INTO ZONE OF CAMP.**

Sec. 3. Be it further enacted, etc., That it shall be unlawful, during the time the United States may be engaged in war, for any person, firm or corporation to carry, in any manner, any of said liquors or medicated bitters into said zone or territory, when and while said Camp Beauregard is being used for the purposes aforesaid, except as herein provided.

**WHEN PROVISIONS NOT APPLICABLE.**

Sec. 4. Be it further enacted, etc., That the foregoing provisions shall not apply to bona fide sales, shipments and transportation for purely medical or sacramental purposes.

**ISSUE OF LICENSES PROHIBITED.**

Sec. 5. Be it further enacted, etc., That, during the time the United States is engaged in war, it shall be unlawful for any police jury, municipal body, tax collector, clerk or any other body or person in authority, to issue any license or permit of any kind authorizing or permitting any person, firm or corporation to engage in the business of selling, bartering, exchanging or otherwise trafficking in spirituous, vinous or malt liquors within said zone or territory, when and while said Camp Beauregard is used for said purposes; and all such licenses and permits in force at the time this act shall go into effect, are hereby revoked and annulled, and shall be void and of no effect.

**REFUND TO HOLDERS OF REVOKED LICENSES.**

Sec. 6. Be it further enacted, etc., That the owner and holder of any such license herein revoked and annulled shall upon delivery, surrender and cancellation to and by the officer, or his successor in office, who issued said license, be entitled to be refunded the pro-rata of the sum paid for said license which the unused period thereof, reckoning from the date this Act goes into effect, shall bear to the total period of said license, and the said refund shall be made out of the respective public treasuries which were the beneficiaries of said original payments, and to the pro-rata extent of such pecuniary benefit.

**PENALTIES IMPOSED.**

Sec. 7. Be it further enacted, etc., That any person violating any provision of this Act shall be deemed guilty of a misdemeanor, and, upon conviction therefor, shall be fined not less than One Hundred Dollars, (\$100),

nor more than Five Hundred Dollars (\$500) for each offense, or shall be imprisoned for not less than thirty (30) days, nor more than six (6) months, or shall suffer both such fine and imprisonment at the discretion of the court.

#### **DUTY OF COURTS.**

Sec. 8. Be it further enacted, etc., That it shall be the duty of all courts of this State, having jurisdiction of the facts, whether such jurisdiction of facts be original or on appeal, upon whose docket appear prosecution for the violation of any of the provisions of this Act, to convene for the trial and disposition of said prosecutions not less than once in each two weeks, except only during the constitutional vacation period, and all such cases, in both the courts of original jurisdiction and of appellate jurisdiction, whether such appellate jurisdiction be on questions of law alone, or on both law and facts, shall be tried, heard and decided by preference.

#### **EFFECT WHERE SUCH SECTION UNCONSTITUTIONAL.**

Sec. 9. Be it further enacted, etc., That should any section or part of this Act be held unconstitutional or invalid, such holding shall not affect any other portion of this Act, but those sections and parts not held unconstitutional or invalid shall be and remain in full force and effect.

#### **REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all laws, or parts of law, in conflict herewith, be and the same are hereby repealed.

### **SHIPMENT OF LIQUOR TO PLACES WHERE SALE IS PROHIBITED.**

**Act 113 of 1916, p. 243.**

#### **TITLE.**

AN ACT to regulate the shipment of vinous liquors into portions of this State where the sale of liquors is prohibited, either from within or without this State; to regulate the delivery of vinous liquors to consignees; to provide for the marking of packages containing vinous liquors; to provide for the making and preservation of records and documents of carriers, and to provide the penalties for the violation of the provisions of this Act.

#### **SHIPMENT TO PROHIBITION TERRITORY PROHIBITED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person, firm or corporation to deliver for shipment, or to receive for shipment, or to ship or carry to any portion of this State where the sale of vinous liquors is prohibited by law or ordinance, any such vinous liquors, except as provided for in this Act.

#### **CARRIERS NOT PERMITTED TO TRANSPORT, ETC., WITHOUT STATEMENT.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any Railroad Company, Express Company or other common carrier, or any person, firm or corporation, to carry any vinous liquors into any territory of this State where the sale of vinous liquors is prohibited by law or ordinance, from any other State or from any point in this State, for the purpose of delivering or to deliver any such vinous liquors, to any person, company or corporation, without making and preserving a record of the delivery of such vinous liquors, consisting of a statement, in writing, setting forth the date on which said vinous liquors were received, the name and post-office address of the consignor and consignee, the place of delivery and to whom delivered, which statement shall be made in duplicate and one sent by such common carrier, firm or person, within ten days, to the Clerk of Court of the Parish or District from which the vinous liquors are shipped, and the other to the Clerk of Court of the Parish or District

to which it is shipped, and shall be receivable in evidence in the Courts of this State as *prima facie* evidence of the truth of the statements therein contained, provided, however, that when vinous liquors are shipped from within this State to a point without this State, it shall not be necessary to furnish a statement to the Clerk of Court of the District or Parish, from which the vinous liquors are shipped or to the Clerk of Court of the County or District without the State to which the vinous liquors are shipped.

**COMMON CARRIER, ETC., NOT PERMITTED TO DELIVER, ETC., WITHOUT OBTAINING RECEIPT.**

Sec. 3. Be it further enacted, etc., That it shall be unlawful for any common carrier, person or corporation to deliver any vinous liquors in any territory of this State where the sale of such vinous liquors is prohibited by law or ordinance, to any person than the consignee, or his agent authorized in writing, and without taking a written receipt signed by the consignee, or agent authorized in writing, which receipt shall be sent within ten days to the Clerk of Court of the Parish or District in which the vinous liquor is received, and it shall be admitted in evidence in the courts of this State.

**CARRIER, ETC., NOT PERMITTED TO RECEIVE FOR TRANSPORTATION.**

Sec. 4. Be it further enacted, etc., That it shall be unlawful for any corporation; or any other common carrier, or person, to receive for shipment to, or to deliver any vinous liquors to any minor in this State, in any territory where the sale of vinous liquors is prohibited by law or ordinance.

**MARKS ON PACKAGES.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any common carrier, person or corporation, to ship, or receive for shipment, or deliver any vinous liquors from any point within this State into any territory of this State where the sale of vinous liquors is prohibited by law or ordinance, without marking on the outside of the package containing such vinous liquor, where it can be plainly seen and read, the words "THIS PACKAGE CONTAINS VINOUS LIQUOR," and the quantity thereof.

**TRANSPORT FROM OTHER STATES.**

Sec. 6. Be it further enacted, etc., That it shall be unlawful for any common carrier or other person to receive or ship any vinous liquor from a point within any other State, or District of the United States, to a person, firm or corporation within any territory of this State, where the sale of vinous liquor is prohibited by law or ordinance, which vinous liquors are intended for sale and violation of the laws of this State, and if such vinous liquor is so received from any other State and transported into such territory in this State, where such sale is prohibited by law or ordinance, in quantities greater or more frequently, or otherwise than as provided for in this Act, it shall be *prima facie* evidence that such shipment of such vinous liquor was intended for sale, and the burden of proof shall be upon the carrier to show the contrary.

**USE OF THE NAME OF ANOTHER.**

Sec. 7. Be it further enacted, etc., That it shall be unlawful for any person to use the name of another in ordering or receiving shipments of vinous liquors in prohibited territory, and it shall likewise be unlawful for any person to permit the use of his name to another for such purpose.

**EXCEPTIONS, ETC.**

Sec. 8. Be it further enacted, etc., That nothing in this Act shall prohibit any common carrier, or any person, firm or corporation, from receiving and shipping to any person for his own use or that of his family not more than fifty-five (55) gallons of vinous liquors contained in a cask, or in bottles or in demijohns.

**PENALTIES IMPOSED.**

**Sec. 9.** Be it further enacted, etc., That any common carrier, person, firm or corporation, or any officer, agent or employee thereof, who violates any of the provisions of this Act shall, upon conviction, be fined not less than one hundred dollars (\$100.00), and not more than five hundred dollars (\$500.00), for each offense, or shall be imprisoned for not less than thirty days nor more than six months, or both such fine and imprisonment at the discretion of the Court.

**REPEALING CLAUSE.**

**Sec. 10.** Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent with the provisions of this act be and the same are hereby repealed.

**Note.** Act 23, E. S. 1915, p. 51, is on the same subject matter, and is repealed in fact, though not *eo nomine*.

## **KEEPING LIQUOR FOR SALE IN PARISHES, ETC., WHERE SALE IS PROHIBITED.**

**Act 14 of 1916, p. 45.**

**TITLE.**

**AN ACT** to prohibit the selling or keeping for sale, in those parishes, wards, cities, towns and villages of this State where the sale of intoxicating liquors is prohibited by law or ordinances, any malt liquors, whether intoxicating or not, and whether containing alcohol or not, and to fix the penalty therefor, and to repeal all laws and parts of law in conflict with this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whoever shall sell or keep for sale any malt liquors, whether intoxicating or not, and whether containing alcohol or not, in any parish, ward, city, town or village of this State where the sale of intoxicating liquors is prohibited by law or ordinance, shall, on conviction, be punished by a fine not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or imprisoned not less than thirty (30) days nor more than six (6) months, and on failure to pay such fine, shall be imprisoned for not more than six (6) months additional, and for a second or subsequent offense the punishment may be doubled.

**Sec. 2.** Be it further enacted, etc., That it shall be the duty of all peace officers, including the sheriff and his deputies and all policemen and town and City Marshals, to aid in enforcing this law.

**Sec. 3.** Be it further enacted, etc., That the possession in any place of business of any such malt liquors shall be *prima facie* evidence that same is kept for sale.

**Sec. 4.** Be it further enacted, etc., That this Act shall take effect from its promulgation and that all laws or parts of laws in conflict with this act be and the same are hereby repealed.

**Note.** See cases cited in note to Act 8 E. S. 1915, on p. 1025. The two acts should be considered together.

## **PROHIBITING MANUFACTURE OF SUBSTITUTE FOR NEAR-BEER.**

**Act 211 of 1914, p. 403.**

**TITLE.**

**AN ACT** to prohibit the manufacture and sale of all substitutes for Near-Beer; to define Near-Beer and provide for the method of the manufacture thereof; regulating the sale and use of Near-Beer and fixing penalties for the violation of any of the provisions of this Act.

**PROHIBITED SUBSTITUTES FOR NEAR BEER.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful to manufacture, sell, offer for sale, barter, exchange or give away as a beverage any malt non-intoxicating liquor, mixture or concoction as a substitute for Near-Beer, or any adulterated temperance beer, provided, however, that it shall be lawful to manufacture, sell, offer for sale, barter, exchange or give away as a beverage Near-Beer made from ingredients herein named and described in the proportion and manner as follows, to-wit: Sixty per cent of choice barley malt; thirty-five per cent of choice rice, five per cent of brewing sugars, one-third of a pound of choice hops per barrel of thirty-one gallons, brewed into a beverage; the period of fermentation to be not less than nine days, to be stored and aged at a temperature of 36 degrees Fahrenheit for at least three months, and what is known as the "finishing" process shall require at least one month's additional time before being offered for sale as a beverage; and shall contain not more than two per cent alcohol in volume or 1.59 per cent in weight; and in no case shall Near-Beer be produced or manufactured from any other ingredients than those above named or by any process other than the method of brewing as above set forth.

**WHAT MUST APPEAR ON BOTTLES.**

Sec. 2. Be it further enacted, etc., That on every bottle containing Near-Beer there shall be printed the maximum quantity of alcohol in volume therein contained, and if an ordinary cork stopper or crown seal is used in or on the bottle, it shall be branded or stamped and bear the inscription "Near-Beer."

**WHAT MUST APPEAR ON KEGS.**

Sec. 3. Be it further enacted, etc., That on every keg containing Near-Beer there shall be labeled the quantity of alcohol in volume contained therein, and the keg labeled "Near-Beer."

**SALE OF OTHER BEVERAGES.**

Sec. 4. Be it further enacted, etc., That it shall be unlawful to sell, or offer for sale any other beverage of any nature, kind or description, whether intoxicating or non-intoxicating, or any articles of merchandise under the same roof where Near-Beer is sold as a beverage.

**KEEPING OTHER BEVERAGES.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful to keep or store for personal use or otherwise any intoxicating liquor under the same roof where Near-Beer is sold as a beverage.

**SIGNS SHOWING THAT NEAR BEER FOR SALE.**

Sec. 6. Be it further enacted, etc., That in any place where Near-Beer is sold as a beverage, a sign shall be placed on the outside of the establishment, in a conspicuous place, easily discernible from the street and in plain view thereof, bearing the words "Near-Beer," the letters thereof to be uniform, at least one foot in height by one foot in width, with no other reading matter of any nature, kind or description thereon.

**PENALTIES IMPOSED.**

Sec. 7. Be it further enacted, etc., That any person, firm or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction in the District Court shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the parish jail for not less than one month nor more than five months, or both, in the discretion of the court, and shall pay all costs of court, including the fee of the expert who may be appointed by the court for the purpose of analyzing the liquor brought into court as evidence, and in default of paying such costs, shall be confined in said parish jail for an additional thirty days, and shall upon a second conviction for the violation of any of the provisions of this Act, be deprived thereafter of

engaging in the business of selling near-beer and this deprivation shall be declared by the court having jurisdiction to impose the penalties fixed by this Act.

#### **REPEALING CLAUSE.**

**Sec. 8.** Be it further enacted, etc., That all laws or parts of laws in conflict with this Act be and the same are hereby repealed.

**Note.** The act is an exercise of the police power of the State, which since it may prohibit, may also regulate the sale of substitutes for near beer. *State vs. George, 136 L. 906. See also State vs. Landry, 139 L. 451.*

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## **LOTTERIES.**

### **REPEAL OF PREVIOUS LAWS; CONDUCT OF, ETC., PROHIBITED.**

**Act 44 of 1879, p. 5 (Acts 1880).**

#### **TITLE.**

**AN ACT** to repeal Act No. 25 of the Legislature of 1868, entitled "An Act to increase the revenues of the State and to authorize the incorporation and establishment of the Louisiana State Lottery Company, and to repeal certain acts now in force"; also to abolish the Louisiana State Lottery Company; also to repeal Act No. 9 of the Legislature of 1874, entitled "An act relative to the unlicensed sale of lottery tickets in the city of New Orleans, and conferring on the police courts the power to suppress the same"; also to repeal Act No. 10 of the Legislature of 1874, entitled "An Act relative to crimes and offenses; to declare the sale of illegal lottery tickets, or the drawing of any illegal lottery a misdemeanor, and to provide for the punishment of the same, and to regulate the evidence to be received upon the trial of such offenses"; also to prohibit lotteries and the sale of lottery tickets; to make it a misdemeanor to set up or promote lotteries or to sell lottery tickets, or aid therein, directly or indirectly; to provide punishment therefor, and to regulate the evidence to be received upon the trial of such offenses.

#### **WHAT ACTS REPEALED.**

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the following acts, to-wit: "An act entitled an act to increase the revenues of the State and to authorize the incorporation and establishment of the Louisiana State Lottery, and to repeal certain acts now in force," being Act No. 25 passed at the first session of the First Legislature begun and held on the 29th day of June, 1868; also an act entitled, "An Act relative to the unlicensed sale of lottery tickets in the city of New Orleans, and conferring on the police courts the power to suppress the same," being Act No. 9 of the second session of the Third Legislature, begun and held on the 5th day of January, 1874, and an act entitled, "An Act relative to crimes and offenses; to declare the sale of illegal lottery tickets, or the drawing of an illegal lottery, a misdemeanor, and to provide for the punishment of the same, and to regulate the evidence to be received upon the trial of such offenses," and any and all other laws upon the same subject matter passed in the interest of the Louisiana State Lottery Company be and the same are hereby repealed.

#### **ABOLITION OF LOUISIANA LOTTERY.**

**Sec. 2.** Be it further enacted, etc., That the Louisiana State Lottery Company be and the same is hereby abolished and prohibited from drawing any and all lotteries, or selling lottery tickets either in its corporate capacity or through its officers, directors, stockholders, members, or agents, directly or indirectly.

**SALE OF LOTTERY TICKETS PROHIBITED.**

Sec. 3. Be it further enacted, etc., That whoever shall sell, barter, exchange, give, or otherwise dispose of or offer to sell, barter, exchange, give or otherwise dispose of, directly or indirectly, personally, or through an agent or agents, either for himself or others, or shall draw any lottery or have any connection with or interest in the drawing of any lottery in this State, or shall have in his possession within this State, with intent to sell or offer for sale, or with intent to barter or exchange, or give or otherwise dispose of, any lottery tickets or shares, or fractional part thereof, or lottery policy or combination, device or any other writing, certificate, or token, intended or purporting to entitle the holder or bearer, or any other person, to any prize, share, or interest in any prize drawn or to be drawn in any lottery, shall be condemned for each offense to, and shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall suffer imprisonment in the parish prison or jail, as the case may be, not exceeding sixty days, or fined not exceeding one hundred dollars, or both at the discretion of the court; one-half of such fine to go to the informer and the other half to the City of New Orleans, or the parish in which said offense is committed, as the case may be.

**PROMOTION OF LOTTERY, PENALTY, ETC.**

Sec. 4. Be it further enacted, etc., That every person who shall set up or promote any lottery in this State, or shall assist or be interested therein, or shall aid by printing or writing, or shall in any way be concerned in setting up, promoting, managing or drawing of any lottery, or shall in any house, shop or building owned or occupied by him or under his control, knowingly permit the setting up, managing or drawing any such lottery, or the sale of any lottery tickets or share of a ticket, or any other writing, certificate, bill, token or other device, purporting or intended to entitle the holder, bearer, or any other person, to any prize, or share of or interest in any prize to be drawn in a lottery, shall be guilty of a misdemeanor, and on conviction shall suffer imprisonment not to exceed sixty days, or a fine not exceeding one hundred dollars, or both, at the discretion of the court, for each offense; one-half of such fine to go to the informer and the other half to the parish or the city of New Orleans, as the case may be, in which such offense is committed.

**EVIDENCE REQUIRED.**

Sec. 5. Be it further enacted, etc., That it shall not be necessary, in the trial of any person or persons for the offense or offenses denounced by this act, to prove the existence of any lottery in which any ticket, share, or part of a ticket, device, token, or certificate thereof, purports to have been issued, or the actual signing of any such ticket, or share, or device, token or certificate thereof, nor that any such ticket or share, or device, token or certificate thereof was signed or issued by authority of any manager of such lottery, or by any person assuming to have such authority, but in all cases it shall be presumed that such ticket, share or interest, device or token, or certificate thereof, was signed and issued according to the purport thereof by proper authority.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 6. Be it further enacted, etc., That this act shall take effect from and after the thirty-first day of March A. D. eighteen hundred and seventy-nine (1879).

*Note. The punitory section of this act, has not been abrogated by Act 167 Cont. 1879. State ex rel Carcass vs. Judge 32 A. 719.*

**SALE OF LOTTERY TICKETS PROHIBITED, ETC.**

Act 25 of 1892, p. 35.

**TITLE.**

AN ACT to prohibit the sale of lottery tickets and lottery drawings or schemes in the State of Louisiana after the 31st day of December, 1892, and providing for the prevention and punishment of all infringements or violations of this act.

**SALE OF LOTTERY TICKETS PROHIBITED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That after the 31st day of December, 1893, it shall be unlawful to sell or offer for sale, give or transmit any ticket, certificate, coupon or share in any lottery or drawing scheme whatsoever in the State of Louisiana.

**DRAWING, OPERATION, ETC., PROHIBITED.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful after the 31st day of December, 1893, to operate or conduct any lottery drawings for the distribution of prizes by lot or chance, or to advertise any such lottery scheme in any public newspaper, circular or otherwise or by personal solicitation, in this State.

**PENALTIES IMPOSED FOR SELLING, ETC.**

Sec. 3. Be it further enacted, etc., That any person or persons who shall sell, offer or attempt to sell any lottery tickets in this State after the 31st day of December, 1893, or who operates or attempts to operate, conduct or advertise any lottery scheme, after said date, and any person who has in their possession the wheel, tickets, schemes or other paraphernalia of any such lottery drawings or schemes in this State shall be guilty of a felony and on conviction thereof shall be fined not less than one hundred dollars or more than five thousand dollars for each offense and imprisoned with or without hard labor at the discretion of the court.

**PENALTIES ON CORPORATIONS, ETC.**

Sec. 4. Be it further enacted, etc., That any corporation, association, syndicate, trust, individual or number of individuals who shall sell, advertise, solicit or attempt to operate the sale of lottery tickets or who shall expose such tickets for sale in any house, store, shops, windows or in any place or manner, shall forfeit the sum of two hundred dollars to the State of Louisiana for each offense, which forfeit shall be recovered before any court of competent jurisdiction in suit brought in behalf of the State by the Attorney General or by the district attorneys throughout the State and all such fines, forfeitures and penalties shall be paid into the school fund of the parish where recovered. Provided, that the provisions of this act shall not apply to the premium bonds issued under or provided for under Act No. 31 of 1876 nor to the schemes authorized by said act.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**SUPPRESSION OF LOTTERIES, ETC.**

**Act 169 of 1894, p. 207.**

**TITLE.**

AN ACT to suppress lotteries; to prohibit and punish the promotion, setting up, or drawing of any lottery; to prohibit and punish the sale of lottery tickets, or the bonds or shares of stock of any lottery company; to prohibit and punish the advertisement of any lottery, the keeping of a lottery office, the acting as agent, manager, promoter, aider or abettor of any lottery or lottery drawing, the furnishing or renting of any room, house, or premises to be used for lottery purposes, or allowing the use thereof for such purposes; to prescribe penalties, and provide remedies therefor, and to make certain regulations concerning the evidence to be adduced on the trial of causes under this act.

**PENALTIES FOR SETTING UP, ETC., LOTTERY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whoever shall establish, set up, draw or run a lottery in this State, for himself, or for others, as an individual, partner, shareholder,

stockholder, officer, manager, or agent, shall, upon conviction, be imprisoned, with or without hard labor, not more than one year and fined not exceeding one thousand dollars, one-half of such fine to go to informer securing the conviction, and the other half to go the City of New Orleans, or parish in which the offense is committed, as the case may be.

**PENALTIES FOR SELLING TICKETS, ETC.**

Sec. 2. Be it further enacted, etc., That whoever shall sell, barter, exchange, give or otherwise dispose of, or offer to sell, barter, exchange, give or otherwise dispose of, or shall have in his possession with intent to sell or offer for sale, to barter, exchange, give or otherwise dispose of, directly or indirectly, personally or through an agent or agents, for himself or others, individually, or as agent, officer or manager, any lottery ticket or fractional part thereof or lottery policy or combination, or device, or any other writing, certificate or token purporting or intended to entitle the holder or bearer, or any other person, to any prize or premium, or share or interest in any prize or premium drawn or to be drawn, or pretended to have been drawn or to be drawn, shall upon conviction suffer imprisonment in the Parish Prison or jail, as the case may be, not exceeding sixty days, or fined not exceeding one hundred dollars, or both at the discretion of the court, for each offense, one-half of such fine to go to the informer securing the conviction and the other half to go to the city of New Orleans, or the Parish where said offense is committed, as the case may be.

The sale of each ticket shall constitute a separate offense; each day that such tickets are offered and held for sale shall constitute a separate offense; and the prosecution for one offense under this section shall be no bar to the prosecution for another, whether it be alleged to have occurred before or after the first one prosecuted.

Note. As to penalty. See Act 107, 1902, printed at p. 474.

**ADVERTISEMENT OF LOTTERIES.**

Sec. 3. Be it further enacted, etc., That if any newspaper published or circulated in this State shall contain an advertisement of any lottery whatever or any space or matter intended to advertise or call attention to a lottery in such manner as may be calculated to promote its business, the publisher, proprietor, owner, manager, whether as an individual, employee, or corporate officer, shall upon conviction be fined not less than fifty nor more than five hundred dollars, or be imprisoned not less than ten days nor more than sixty days, or both, for each offense, one-half of such fine to go to the informer securing the conviction and the other half to the city of New Orleans or parish where the offense is committed, as the case may be; and the issuance of each daily or weekly newspaper containing such advertisement shall be considered a separate offense.

**ACTUAL AGENT FOR LOTTERY.**

Sec. 4. Be it further enacted, etc., That if any person shall act as agent for any lottery or lottery company, or shall assume to act wherever said lottery may be located or pretended to be located, or if he shall receive any money or other thing of value for any such lottery or lottery company, or pretended lottery or lottery company, or as such agent deliver to any person any ticket or tickets, prize or premium, or if he shall pay a prize or premium won or pretended to have been won, in any drawing or pretended drawing, in any lottery, real or pretended, he shall, upon conviction be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not less than one month nor more than six months, or both, for each offense, one-half of such fine to go to the informer securing conviction, and the other half to the city of New Orleans or parish, as the case may be.

Note. As to penalty. See Act 107, 1902, printed at p. 474.

**KEEPING LOTTERY SHOP.**

Sec. 5. Be it further enacted, etc., That whoever shall keep a lottery office or shop, in any place or manner, or shall rent a house, room, or space to be used for that purpose, or shall allow any house, room, or space upon any property owned, leased or controlled by him or her, individually

or as agent, officer, manager, or stockholder, to be used as a lottery office or shop, or as a place for drawing or promoting or carrying on a lottery or for selling lottery tickets or for any other purpose calculated to aid and assist in carrying on a lottery or conducting its business, shall upon conviction, be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than six months, or both, one-half of such fine to go to the informer securing the conviction, and the other half to the city of New Orleans or parish where the offense is committed; each or any of said acts shall be considered a separate offense each day of the time during which said house, room, or space may be used for the purpose or purposes herein specified.

Note. As to penalty. See Act 107, 1902, printed at p. 474.

**ADDITIONAL PENALTIES IMPOSED.**

Sec. 6. Be it further enacted, etc., That in addition to the penalties imposed by this act, and independent of the prosecutions which may be instituted under the same, each person doing any of the acts herein forbidden shall forfeit the sum of two hundred dollars for each offense as herein defined to be recovered by suit; and it shall be the duty of the Attorney General in the city of New Orleans, and of the District Attorneys throughout the State, to bring the necessary suits to recover such forfeitures, and to enjoin any and all persons from violating this law, and from carrying on a lottery business in violation of the law. Each and every person doing any act herein denounced in connection with, or in the aid or service of any lottery or pretended lottery shall be liable, in solido, for any and all the forfeitures herein declared, and may be proceeded against and enjoined in the one suit, or in different suits, as the Attorney General or District Attorney may determine. Parties violating, disregarding or evading any injunction herein authorized shall be punished for contempt of court by a fine not exceeding one hundred dollars or imprisonment not exceeding thirty days, or both, for each offense, one-half of such fine to go to the informer securing the imposition thereof, and the other half to the city of New Orleans or parish, as the case may be.

**EVIDENCE.**

Sec. 7. Be it further enacted, etc., That it shall not be necessary on the trial of any civil suit or criminal prosecution under this act to prove the existence of any lottery in which any ticket, share or part of a ticket, device, token or certificate thereof, purports to have been issued, or the actual signing of any such ticket or share, or device, token or certificate thereof, was signed, or issued by authority of any manager of such lottery, or by any person assuming to have such authority, but in all cases it shall be presumed that such ticket, share or interest, device, token or certificate thereof, was signed and issued according to the purports thereof, by proper authority; nor shall it be necessary to prove that such ticket, share, device, token or certificate purported anything upon its face, but any paper, token, device, or understanding given and received as a pledge, that in some event a prize or premium will be paid to the holder shall be considered as a lottery ticket for the purposes of this act; nor shall it be necessary to prove the actual sale of lottery tickets in a house, office or premises, but any sign, tickets, sheets, bulletins or other device, used to indicate that tickets are kept for sale, or to give information as to the result of any drawing or pretended drawing, shall be taken and accepted as sufficient proof of the keeping of a lottery office or shop.

**DUTY OF SHERIFFS AND POLICE.**

Sec. 8. Be it further enacted, etc., That it shall be the duty of the several sheriffs throughout the State and of the police in the several cities throughout the State to investigate when notified of the infraction of this law, and to arrest, without warrant, all persons found by them selling lottery tickets, keeping lottery offices or shops or running or drawing a lottery, or surrounded by the evidences of conducting a lottery and to seize all wheels, tickets, sheets, baskets, balls tables, property and paraphernalia used in the conduct of such lottery business, and take persons, prop-

erty and paraphernalia before the proper magistrate or recorder, who shall commit the offenders for examination or trial, and hold the property and paraphernalia as evidence. All such property and paraphernalia as shall be the mere instruments of crime shall upon the order of the Judge of the Criminal Court of New Orleans, and of the District Court in the country parishes, be destroyed when it is no longer needed as evidence, and all property found in use for such unlawful purpose having a value for other and lawful purposes, shall be sold under the orders of the court, and the proceeds paid to the parish or city, as the case may be.

**ENACTMENT OF ORDINANCES TO SUPPRESS, ETC.**

Sec. 9. Be it further enacted, etc., That it shall be the duty of all cities and towns throughout the State, in the exercise of its police power in the suppression of nuisances, to make and enforce ordinances against all lotteries, the keeping of lottery shops, the sale of lottery tickets, and the payment of lottery prizes or premiums, and the Attorney General and District Attorney shall have the power by civil proceedings to compel the performance of their duties in this regard by the various municipal officers and functionaries.

**FORFEITURE OF CHARTERS BY CORPORATIONS SELLING, ETC., STOCK IN LOTTERY COMPANIES.**

Sec. 10. Be it further enacted, etc., That if any person licensed to carry on business in this State, or any corporation domiciled or doing business in this State shall sell or authorize or conduct the sale, for himself or itself, or for others, the bonds or shares, or certificates of stock, of any lottery company, or of lottery tickets of any company, wherever the same may be located or be pretended to be located, such person shall forfeit his license and such corporation shall forfeit its charter; and it shall be the duty of the Attorney General or proper District Attorney to bring the necessary suit to forfeit the charter, to revoke the license, and to enjoin the sales and the conduct of the business herein denounced; or he may, in his discretion, sue out such injunction without demanding the forfeiture.

**ACT NOT APPLICABLE TO PREMIUM BONDS.**

Sec. 11. Be it further enacted, etc., That the provisions of this act shall not be construed as affecting the legality or prohibiting the Premium Bond plan now in operation in the City of New Orleans.

**REPEALING CLAUSE—EXEMPTION.**

Sec. 12. Be it further enacted, etc., That this act shall take effect from and after its passage, and all laws contrary thereto be repealed as to the future; but all laws on the same or similar subject matters shall be continue in force as to acts done, and penalties and forfeitures incurred previous to the adoption of this act.

*Note.* A gambling device, commonly called a "punch board" is a lottery. The word "Lottery" has no technical meaning in the law distinct from its popular significance, and the act is not invalid, because it does not define the word "Lottery." City of Shreveport vs. Kahn, 136 L. 371.

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## MARRIAGES.

[R. S., Sec. 2202.] By whom licenses to celebrate may be granted. R. C. C., Art. 99.

[R. S., Sec. 2203.] All ministers may celebrate marriages. R. C. C., Art. 102.

[R. S., Sec. 2204.] Ministers must obtain special license to celebrate. R. C. C., Art. 104.

[R. S., Sec. 2205.] Ministers must make duplicate acts and return to clerk, etc., granting license. R. C. C., Art. 105.

[Penalty For Violating Sections 2205, 2206.]

[R. S., Sec. 2206.] All violations of the two preceding sections shall be punished by a fine not exceeding one thousand dollars.

[Judges May Celebrate Marriages.]

[R. S., Sec. 2207.] The several judges of the District and Parish Courts in this State shall be authorized to celebrate marriages, under the same regulations and penalties as are now prescribed for Justices of the Peace.

[R. S., Sec. 2208.] Justices of the Peace may celebrate marriages within their respective parishes. R. C. C., Art. 103.

[R. S., Sec. 2209.] Directs that C. C. 101, 102 (R. C. C., Art. 102) shall be so construed that any priest or minister may celebrate marriages in any parish of the State, though he be not a resident of parish. R. C. C., Art. 102.

[R. S., Sec. 2210.] What constitutes Bigamy; exceptions and penalties. R. S., Sec. 800, title "Crimes and Offenses."

[Notaries of West Feliciana Parish May Celebrate Marriages.]

[R. S., Sec. 2211.] From and after the passage of this act the regularly commissioned notaries of this State, in and for the Parish of West Feliciana, during their term of office, shall be empowered to perform within said parish the ceremony of marriage, under the formalities required by law, and said ceremony, when performed by them, shall have the same legal effect as when performed by any other person or persons authorized by existing laws to perform the same.

[Legalization of Private or Religious Marriages.]

[R. S., Sec. 2212.] All private or religious marriages contracted in this State at any time previous to the passage of this act shall be deemed valid and binding, and as having the same force and effect as if said marriages had been contracted with all the formalities and forms prescribed by the laws then existing; *provided*, that at any time within two years from the date of this act the parties having contracted such private or religious marriages shall by an authentic act before a duly commissioned notary public, if they reside in the State, or before a competent officer, if they reside in another State, or before a United States Ambassador, Charge d'Affaires, or Consul, or Vice-Consul, if they reside in a foreign country, make a declaration of their marriage, the date on which it was contracted, the names, sex and ages of the children born of said marriages, acknowledging said children as their legitimate offspring, and in accepting the

benefit of this act bind and obligate themselves to perform all the duties and to assume all the obligations imposed by existing laws in relation to civil marriages, and to abide by the same; and, *provided*, that no marriage shall be ratified nor the issue of such marriage legitimatized by or according to the provisions of this act, when there existed at the date of such private or religious marriage, or at any time since, any other legal impediment to the marriage of the parties to the private or religious marriage than that of race or color.

*Note.* The nullity of consensual marriages may be inferred from this statute which provides for their validation on the authentic acknowledgment of the marriage relation by the parties in interest. This is true even of so called slave marriages, where the slaves "took up with each other" and, lived together with the consent of their owner. Johnson vs. Raphael, 117 L. 967.

**[Force and Effect of Such Marriages.]**

**[R. S., Sec. 2213.]** All marriages, duly legalized as aforesaid, shall have, from the date on which they were privately or religiously contracted, full force and effect as if they had been contracted with all the formalities and forms required by the then existing laws, and the children born of said marriages and acknowledged as aforesaid shall have and enjoy all the rights and privileges granted by existing laws to legitimate children.

**[Benefits of Law of Acquets and Gains.]**

**[R. S., Sec. 2214.]** All marriages legalized as aforesaid shall be deemed contracted under the law of community of acquests and gains, unless other stipulations authorized by existing laws are agreed between the parties and embodied in the authentic act legalizing their marriages; *provided*, that any other stipulation than that of community of acquests and gains shall only have effect from and after the date of the authentic act making the marriage legal and valid in law, as provided in the first section of this act.

**[No Distinction of Color or Race.]**

**[R. S., Sec. 2215.]** The said right of making private or religious marriages legal, valid and binding, as aforesaid, shall apply to marriages of all persons of whatever race or color, as well as to marriages formerly prohibited by Article Ninety-five of the Civil Code of Louisiana, or by any other article of said code, or by any law of the State.

**[Consensual Marriages, Etc.]**

**[R. S., Sec. 2216.]** Any parties who at any time previous to the passage of this act have lived together as man and wife, and who desire to contract a legal marriage, shall be entitled to the benefit of the provisions of this law, and the issue of such cohabitation shall be hereby legitimatized upon the parties complying with the foregoing requirements, subject, however, to the exceptions contained in Section 2212.

*Note.* See note to R. S. Sec. 2212.

**MARRIAGES IN OTHER STATES.****Act 151 of 1914, p. 267.****TITLE.**

**AN ACT** on the subject of marriages in another State, territory, district, possession or country, in evasion or violation of the laws of the domicile of one or both of the contracting parties, and to promote uniformity between the States in reference thereto.

**MARRIAGES IN OTHER STATES WHEN NULL.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That if any person residing and intending to continue to reside in this State who is disabled or prohibited from contracting marriage under the laws of this State shall go into another state, territory, district, possession, or country and there contract a marriage prohibited and declared void by the laws of this State, such marriage shall be null and void for all purposes in this State with the same effect as though such prohibited marriage had been entered into in this State.

**MARRIAGE OF NON-RESIDENTS.**

**Sec. 2.** Be it further enacted, etc., No marriage shall be contracted in this State by a party residing and intending to continue to reside in another State or jurisdiction, if such marriage would be void if contracted in such other State or jurisdiction, and every marriage celebrated in this State in violation of the provision shall be null and void.

**AFFIDAVITS OF NON-RESIDENTS.**

**Sec. 3.** Be it further enacted, etc., Before issuing a license to marry to a person who resides and intends to continue to reside in another State the officer having authority to issue the license shall satisfy himself by requiring affidavits or otherwise that such person is not prohibited from intermarrying by the laws of the jurisdiction where he or she resides.

**PENALTIES IMPOSED.**

**Sec. 4.** Be it further enacted, etc., Any official issuing a license with the knowledge that the parties are thus prohibited from intermarrying and any person authorized to celebrate marriage who shall knowingly celebrate such marriage shall be deemed guilty of a misdemeanor, and shall be punished by fine or imprisonment or both in the discretion of the court.

**RECORD OF MARRIAGES.****Act 104 of 1912, p. 122.****TITLE.**

**AN ACT** requiring all Clerks of the Court in the Country Parishes to keep a record of all marriage licenses issued by them in a well bound book, and prescribing in what manner the same shall be kept.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of all Clerks of the Court in the country Parishes of this State to keep in a wellbound book a record of all marriage licenses issued by them.

Such record shall show, the date of issue, the names of the parties, the age of the parties, the names of the parents of the parties, the residence of the parties, the residence of the parents of the parties, whether the parties have been previously married and if so the name of the former husband or wife, whether dead or alive, and the relationship of the parties.

Such record shall be kept in a well bound book, which book shall be open to the inspection of the public during office hours.

Whenever returns are made of the licenses issued, the Clerk shall make a notation of the said record of licenses issued showing the date of the marriage and of the return thereof made by the officer officiating at such marriage.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith, be and the same are hereby repealed.

## MARRIAGE STATISTICS.

**Act 125 of 1910, p. 197.**

### TITLE.

AN ACT providing for the return of marriage statistics.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all Judges of the City Courts, Justices of the Peace, Clerks of the District Courts and Health Officials throughout the State, shall, on or before the first day of February of each year, return to the Secretary of the State Board of Health, upon suitable blanks, to be provided by the said Board, an abridged statement of all marriage licenses issued by him during the preceding calendar year, specifying in each case:

1. Record number and date of the license.
2. Full names of the husband and wife.
3. Residence of each party.
4. The color of each party.
5. The age of each party.
6. The occupation of each party.
7. Date of marriage.
8. Place of marriage.
9. By whom ceremony was performed.
10. Number of former marriages and divorces.
11. Names of parents or guardians where either party is under age.

Sec. 2. Be it further enacted, etc., That upon neglect or refusal to make such returns, such officer shall, for each such neglect or refusal, forfeit and pay the sum of \$100.00 for the use of the proper parish, to be collected as debts of like amount are now collectible.

Sec. 3. Be it further enacted, etc., That the Secretary of the State Board of Health shall annually prepare, from said returns, abstracts and tabular statements of the facts relating to marriage in each parish, and embody them, with the necessary analysis, in his annual report to the State.

## MASTER AND WARDENS.

[R. S., Sec. 2217.] Appointment of Master and Wardens for the Port of New Orleans. Repealed by act *infra*.

## REGULATION OF OFFICE.

**Act 3 of 1877 (E. S.), p. 4.**

### TITLE.

AN ACT to regulate the office of Wardens for the port of New Orleans, and to repeal sections two thousand two hundred and seventeen and two thousand two hundred and twenty-nine of the Revised Statutes of Louisiana.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That section two thousand two hundred and seventeen of the Revised Statutes of Louisiana be repealed; and that the Governor, by and with the advice and consent of the Senate, appoint as Wardens for the Port of New Orleans, two competent persons familiar with sea service; and that said wardens shall hold their offices for a term of two years.

Sec. 2. Be it further enacted, etc., That said wardens shall keep an office in a central position, and shall cause to be made, in a book or books kept for that purpose, an entry of all their surveys, to which all persons may have access at reasonable times; and that certified copies of said entries, under the official signature of either of said Wardens, shall be admissible in evidence without further proof.

**Sec. 3.** Be it further enacted, etc., That either of said wardens shall, when called upon by the master of any ship or vessel arriving from sea, inspect the manner in which the hatches of said ship or vessel were secured previous to the opening of the same for the purpose of discharge, and shall certify to the condition of the cargo in sight, for which survey and certificate he shall be entitled to three dollars, and for every subsequent survey of the same ship or vessel to one dollar, and for every duplicate certificate to one dollar.

**Sec. 4.** Be it further enacted, etc., That it shall be the duty of said wardens to note the marks, numbers, description and location of all damaged goods so surveyed, the cause of damage and the character of the damage and stowage.

**Sec. 5.** Be it further enacted, etc., That it shall be lawful for the wardens jointly to survey damaged goods in store, to certify to the nature of such damage, and to order the sale thereof at public auction, to be advertised twice in two daily papers before the sale, for which survey and certificate they shall be entitled to a fee of ten dollars; and if required to attend the sale and to certify to the account thereof they will be entitled to a further fee of five dollars.

**Sec. 6.** Be it further enacted, etc., That it shall be lawful for the wardens jointly to survey the condition of damaged ships or vessels arriving in the Port of New Orleans, and to certify to the same, and for said survey and certificate they shall be entitled to a fee of ten dollars, and for each subsequent survey of the same to a fee of five dollars.

**Sec. 7.** Be it further enacted, etc., That it shall be lawful for the wardens to survey damaged cargo on board of any river steamboat arriving in the Port of New Orleans, and to certify to the condition of the same, for which survey and certificate they shall be entitled to a fee of five dollars.

**Sec. 8.** Be it further enacted, etc., That section two thousand two hundred and twenty-nine of the Revised Statutes of Louisiana be and is hereby repealed.

**Sec. 9.** Be it further enacted, etc., That this act shall take effect from the day of its passage.

**Note.** Many of the provisions of this act are repealed by Act 70, 1896 (See Sec. 4) and its amendments and other acts establishing a Commission for the Port of New Orleans. These acts are all printed under the title "New Orleans," subtitle "Board of Commissioners for the Port of New Orleans."

In 1896 the office of Wardens of the Port was merged into the Port of Commissioners for the Port of New Orleans. *Planters Cotton Oil Co. vs. Texas & Pac. Ry. Co.*, 139 L. 206. (The act referred to is Act 70 of 1896 mentioned above.)

#### [Location of Office, Books.]

[R. S., Sec. 2218.] The Master and Wardens shall keep an office in the city of New Orleans, and shall cause to be made, in a book to be kept for that purpose, an entry of all their proceedings, to which all persons may have access.

#### [Duties of Warden—Fees.]

[R. S., Sec. 2219.] The Master and Wardens, or any one of them, shall, if called upon by the person commanding any ship or vessel arriving from sea, inspect the manner in which the hatches of such ship or vessel were secured previous to the opening thereof for the purpose of discharge, and shall be present at the opening of the same; and shall, upon every such survey, certify under his hand how the hatches appeared to him; for which certificate he shall be entitled to two dollars, and for every duplicate thereof one dollar.

#### [To Have No Interest in Pilot Boats, Etc.]

[R. S., Sec. 2220.] Neither the Master nor any of the Wardens aforesaid shall be concerned, directly or indirectly, in

any pilot-boat or with any branch pilot in respect to the business of his trust.

**[Fees in Certain Cases.]**

[R. S., Sec. 2221.] Whenever goods and merchandise, damaged on board of vessels arriving from sea, belong to different proprietors, but are addressed to the same consignee, it shall be lawful for the Wardens who shall have inspected the same, and ordered and attended the sale of such damaged goods at auction, to demand and receive distinct fees for such property so surveyed and sold, provided the consignee shall require different sets of certificates for each.

**[Deputies—Oath.]**

[R. S., Sec. 2222.] The Wardens of the Port of New Orleans may appoint Deputies and Clerks, but the Deputies and Clerks shall take the oath prescribed by the Constitution, and shall be sworn truly and faithfully to perform the duties imposed on the Wardens of the Port of New Orleans; and the said Wardens shall be responsible for the acts of their deputies.

**[Sale of Damaged Goods.]**

[R. S., Sec. 2223.] No damaged goods brought to the port of New Orleans by any seagoing vessel, shall be sold at public auction, except under the order and supervision of the master and wardens of the port of New Orleans, and any auctioneer selling any such goods without said order, shall be subject to a fine of fifty dollars, to be sued for and paid over, as provided in the previous section.

**[Rights of Parties to Compromise.]**

[R. S., Sec. 2224.] Nothing in this act shall in any manner prevent all parties interested in any damaged goods, arriving at the port of New Orleans, from compromising all claims for damage without a sale, even when ordered by the master and wardens.

**[Master, Etc., to Board and Examine Vessels.]**

[R. S., Sec. 2225.] It shall be the duty of the Master and Wardens of the port of New Orleans, or any one of them, on being required by the captain or other interested party to proceed on board of any seagoing vessel, river steamboat or barge, and examine the hatches or stowage, and condition of the cargo, and shall cause to be made in a book kept for that purpose a record of all their proceedings, to which all persons may have access, and that said Master and Wardens, for every survey of hatches, shall be entitled to demand and receive five dollars; for every subsequent survey of cargo, three dollars; and for each certificate issued, one dollar.

**[Hatches to be Opened in Presence of Warden.]**

[R. S., Sec. 2226.] If, after the arrival in port of any sea-going vessel, the hatches shall be first opened without a member of the Board of Wardens be present, and the cargo or any part thereof shall come from on shipboard in a damaged condition, these facts shall be presumptive evidence that such damage occurred in consequence of improper stowage or negligence on the part of the person in charge of said vessel, and such default shall be chargeable to the owner, consignee, master or other persons in interest (as part owner or master) of said vessel, each and all of whom shall be primarily liable for such damage. *Provided,* That stress of weather or accident does not render it necessary that the hatches of a vessel shall be opened after said vessel may be in charge of a pilot at this port.

**[River Craft Exempted From Survey, Etc.]**

[R. S., Sec. 2227.] Nothing in this act requiring hatches to be surveyed by the Port Wardens shall be construed to apply to river boats or barges.

**[Fees for Survey.]**

[R. S., Sec. 2228.] The Master and Wardens may demand and receive the same fees, to be paid by the parties calling survey, when a compromise is made, that they would receive had no compromise been effected.

[R. S., Sec. 2229.] Master, etc., to Offer Services. Repealed by Act 3, E. S. 1877, printed *supra*.

**[Penalty for Unlawfully Acting as Master, Etc.]**

[R. S., Sec. 2230.] It shall be unlawful for any person other than the said master and wardens, or their legally constituted deputy, to make any survey of hatches of seagoing vessels coming into the said port of New Orleans, or to make any survey of damaged goods coming on board such vessel, whether such survey be made on board or on shore, or to give certificates on orders for the sale of such damaged goods at auction, or to do any other of the acts and things prescribed by law for the said master and wardens to do and perform; and the person doing said illegal and forbidden acts, his instigators and encouragers, shall be liable and bound to pay *in solido* to the said master and wardens one hundred dollars damages, with costs, for each of said illegal and forbidden acts so done; and should such illegal and forbidden act be done at the instance, procurement and instigation of the master, owner or owners, or agent of such vessel, then the said vessel, her master and owners shall be liable and bound to pay the said master and wardens the said amount of one hundred dollars damages, which amount, in each and all of the cases above named may be recovered by the said master and wardens, by civil suit, before any court having jurisdiction of the

parties and amount, and in case of several violations of the provisions of this act by the same party or parties, it shall not be indispensable to institute a separate suit for each violation, but the said master and wardens may have and maintain their suit, before any court having jurisdiction of the parties and amount for the aggregate amount of damages, for which the defendant or defendants may be liable under the provisions of this act.

[R. S., Sec. 2231.] Master and Wardens to Approve Bond of Branch Pilots. R. S., Sec. 2688, Title "Pilots."

[R. S., Sec. 2232.] Master, etc., to Sue Pilots for Violation of Certain Acts. R. S., Sec. 2695, Title "Pilots."

[R. S., Sec. 2233.] Master, etc., to Hear Complaints of Captains of Misconduct of Pilots. R. S., Sec. 2699, Title "Pilots."

[R. S., Sec. 2234.] Master, etc., to Suspend Any Branch Pilots Not Owning and Employing Pilot Boat. R. S., Sec. 2702, Title "Pilots."

[R. S., Sec. 2235.] Master, etc., to Determine Value of Pilots' Extra Services When Master, etc., of Vessel Cannot Agree. R. S., Sec. 2690, Title "Pilots."

*Note.* See Titles "Harbor Master," New Orleans; subtitle "Commissioners, Port of New Orleans."

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## METROPOLITAN POLICE DISTRICT.

[R. S., Secs. 2236 to 2308, inclusive.] Are based on Acts 92, 1869; 44, 1869, and 87, 1869, which acts were in terms repealed by Act 35, E. S. 1877, p. 57. Acts 60, 1869, and 65, 1869, on which some of the sections were based, though not repealed in terms, were so repealed in fact. The whole subject is obsolete by repeated changes in the legislation relating to municipal corporation, administrative and judicial systems of the State.

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## MILITIA.

[R. S., Secs. 2309 to 2315, inclusive.] Provide for the formation of companies of militia in the various parishes, their combination into regiments, etc.; prescribe instruction, etc. All these provisions have been superseded or repealed by subsequent acts. These acts are 22, E. S. 1877, p. 269; 133, 1898, p. 203, amended by Act 46, 1900, p. 57; 181, 1904, p. 371. The last general act, which repealed the Act of 1904, is

**ORGANIZATION, ETC., OF MILITIA.****Act 191 of 1912, p. 337.****TITLE.**

AN ACT to define and provide for the organizing and disciplining of the militia, to provide penalties for the violation of the same, to prescribe the duties of the Governor, The Adjutant General, and all officers and enlisted men thereof, to define military offenses, to provide penalties therefor and the method of enforcing the same, to provide for the pay, transportation and subsistence of the militia when called into actual service, and to repeal all laws in conflict therewith, especially Act 181, approved July 6th, 1904.

**PERSONS WHO COMPOSE MILITIA.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all able bodied male citizens and able bodied males of foreign birth, who have declared their intention to become citizens, who are more than 18 and less than 45 years of age, who are residents of this State, and who are not exempted by the laws of the United States, or of this State, shall constitute the militia and be subject to military duty.

**ACTIVE AND RESERVE MILITIA.**

Sec. 2. Be it further enacted, etc., That the militia shall be divided into two classes, the active and the reserve militia. The active militia of this State shall consist of the regularly enlisted, organized and uniformed military forces, who have heretofore participated or shall hereafter participate in apportionment of the annual appropriation provided by Section 1661 of the Revised Statutes of the United States, as amended, and shall be known as the national guard, and of the regularly enlisted, organized, and uniformed naval forces which shall be known as the naval militia. The reserve militia shall consist of all those liable to service in the militia but not serving in the active militia of the State.

**WHO EXEMPT FROM SERVING.**

Sec. 3. (As amended by Sec. 1, Act 264, 1916, p. 541). Be it further enacted, etc., That only the persons hereinafter named shall be exempt from militia duty; The Vice President and all officers, judicial, executive and legislative of the government of the United States and of this State; persons from the military or naval service of the United States; persons employed in the transmission of mail; artificers and workmen employed in armories, arsenals and navy yards; pilots; mariners in sea service; and all persons who because of religious beliefs shall claim exemption from militia service, if the conscientious holding of such belief shall be established, but such persons so exempted shall be required to serve in any capacity which the President of the United States shall declare to be non-combatant. In addition to the complement of officers and men on the active roll, each company of artillery, cavalry, infantry, signal corps and naval militia, shall be entitled to elect half as many contributing members as there are active members, who shall be subject to a contribution to be paid into the State Treasury, and placed to the credit of the military fund to be subject to the order of the Governor, for military purposes, of not less than fifty dollars per annum, one-half to be paid to the fund for the support of the militia and one-half to the Treasury of the command to which contributing member may be attached, and also, such dues and services as may be prescribed by the command of which he shall become a contributing member. Such member shall be exempt from jury duty upon the production of annual certificates of the commanding officer, countersigned by the senior officer of his company, troop, battery, or battalion.

**GOVERNOR IS COMMANDER-IN-CHIEF.**

Sec. 4. Be it further enacted, etc., That the Governor of this State, by virtue of his office, shall be the commander-in-chief of the military forces of this State, except of such portion as may at times be in the service of the United States.

**UNORGANIZED MILITIA.**

**Sec. 5.** (As amended by Sec. 2, Act 264, 1916, p. 542.) The unorganized militia shall not be subject to active military duty, except when called into service of the State, or of the United States, in case of war, insurrection, invasion or for the prevention of invasion, the suppression of riot, tumults and breaches of the peace, or to the aid of civil officers in the execution of the law and the service of process, in which case they, or so many of them as the necessity requires, may be ordered out for actual service by draft or otherwise, as the Governor may direct. The portion of the unorganized militia ordered out or accepted shall be mustered into the service for such period as may be required, and the Governor may assign them to existing organizations of the active militia, or organize them as the exigency of the occasion may require.

**ENROLLMENT OF PERSONS LIABLE TO DUTY.**

**Sec. 6.** Be it further enacted, etc., That whenever the Governor deems it necessary, he may order an enrollment of all persons, other than members of the active militia liable to militia duty, to be made by the parish assessor of said parish, or by other persons designated by the Governor. Such enrollment shall state the name, residence, age, color, nationality and occupation of the persons enrolled. Enrolling officers shall have the power to question under oath, which they are hereby authorized to administer, any person deemed liable to perform military duty, but who denies the same, and if any person refuses to be sworn, the enrolling officer shall enroll his name in the same manner as though he had admitted his liability. The assessor or such other person as may be designated by the Governor to act as enrolling officer, shall, within such time as may be required by the Governor, prepare and file three copies of such enrollment, properly, certifying that he has enrolled all persons residing in his parish, who are liable to perform military duty; one copy to be filed in the office of the Adjutant General, one copy in the office of the Clerk of the District Court of the parish in which the enrollment was made, and one copy retained by the enrolling officer. Upon filing the lists of enrollments, as herein provided, the enrolling officer shall be paid eight cents for each person so enrolled and notified, as hereinafter set forth, out of the treasury of the parish.

**HOW ENROLLMENT SHALL BE MADE.**

**Sec. 7.** Be it further enacted, etc., That the officer making the enrollment shall at the time of making the same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him or leaving it with some person of suitable age and discretion, at his place of residence, or by mailing such notice at the expense of the parish to his last known place of residence or abode. All persons claiming exemption must, within ten days after receiving such notice, file a written statement of such exemption, verified by affidavit, in the office of the said Clerk of Court. Such Clerk shall thereupon, if such person be exempted according to law, mark the work "exempt" opposite his name; and the remainder of all thus enrolled, and not thus found to be exempt, shall constitute the militia of this State and be subject to military duty, and such clerk shall transmit a copy of such corrected list of enrollment to the Adjutant General within twenty days after the filing of the original list of enrollment by the enrolling officer, for which he shall be allowed two cents for each name on such list, to be paid by the parish. The officer highest in rank in the active militia and the heads of the fire and police departments in each city or town, whenever an enrollment is ordered, file within ten days in the office of said clerk a certified list of the names of all persons in active militia of such parish, or in such department.

**EXAMINATION OF ASSESSMENT ROLLS.**

**Sec. 8.** Be it further enacted, etc., That the assessor in each parish of this State shall allow persons appointed to make such enrollment, if persons other than the assessor be appointed, at all proper time to examine their assessment rolls and make copies thereof. All persons shall upon the application of any person making such enrollment give the name of and all

other information concerning any person within their knowledge liable to be enrolled, and shall for every concealment of false information or refusal to give the information requested be guilty of a misdemeanor. The officer making the enrollment shall within ten days report all persons who shall fail or neglect to give information to the Adjutant General.

**APPORTIONMENT OF CALLS.**

Sec. 9. (As amended by Sec. 3, Act 264, 1916, p. 542.) Be it further enacted, etc., That whenever it shall be necessary to call out any portion of the unorganized militia for active duty, the Governor may apportion the number by draft according to the population of the several parishes of the State, or otherwise, as he shall direct. The Governor shall direct his order to the sheriff for each parish from which any draft is required, setting forth the number of persons each parish is to furnish. Upon requisition of the Governor being received by the sheriff, he shall, immediately, personally notify the Clerk of Court, who shall repair to his office and, in public, shall copy, by name and number, from the corrected list of enrollment of such parish on file in his office, all persons who are so returned as liable to perform military duty; such names of their corresponding numbers shall be placed on slips of paper of the same size and appearance, as near as practicable, which slips, so named and numbered, shall be placed in a box suitable for that purpose, and the number required to fill such draft or requisition shall be drawn therefrom, in the same manner as jurors are by law now drawn. All persons so drawn and liable to perform military duty shall be determined to be legally held to serve in the manner and for the purpose and time specified in the requisition, and the sheriff shall notify the persons so drafted, by registered letter, or personally in writing, at what time and place they shall appear; for which service he shall receive expense of postage and five cents each, to be paid by the parish.

**DUTY TO RESPOND TO CALL, EXEMPTIONS.**

Sec. 10. (As amended by Sec. 4, Act 264, 1916, p. 542.) Be it further enacted, etc., That every member of the unorganized militia ordered out, or who volunteers, or is drafted under the provisions of this act, who does not appear at the time and place designated by the sheriff or his commanding officer within twenty-four hours of such time, or who does not produce a sworn statement of physical disability, from a physician in good standing, to so appear, shall be taken to be a deserter, as absent without leave, or as guilty of disobedience of orders, as the case may be, and dealt with as prescribed hereinafter by this act.

**EXEMPTION FROM SECOND CALLS.**

Sec. 11. (As amended by Sec. 5, Act 264 of 1916, p. 543.) Be it further enacted, etc. That any person in the unorganized militia of this state who has been drawn to perform military duty, may, at any time be exempt, until again required in his turn to serve, by furnishing an acceptable substitute on or before the day fixed for his appearance; but if, during any period of service, any man who is serving in the active militia as a substitute for another, becomes liable for service in his own person, he shall be taken for such service, and his place as substitute shall be supplied by the man in whose stead he is serving, or another substitute.

**SHERIFF, ETC., FAILING TO ACT, ETC.**

Sec. 12. Be it further enacted, etc., That if any sheriff or constable, parish assessor or parish clerk shall neglect or refuse to perform any duty enjoined upon him by this Act in addition to criminal liability, the person or persons guilty of such refusal or neglect shall be liable to a penalty of not less than one thousand dollars, to be recovered against him or his bondsmen in the name of the State of Louisiana by suit instituted by a judge advocate, or district attorney, in the proper court of the parish of which such person is the sheriff, constable, assessor or clerk.

**GOVERNOR, POWER TO QUELL RIOTS, ETC.**

Sec. 13. Be it further enacted, etc., That the Governor shall have power in case of insurrection, invasion, tumult, riot or breach of peace, or immi-

nent danger thereof, to order into the active service of this State any part of the militia that he may deem proper. When the militia of this State, or a part thereof, is called forth under the Constitution and laws of the United States, the Governor shall order out for services the active militia or such part thereof as may be necessary, and if the number available be insufficient, he shall order out such part of the reserve militia as he may deem necessary. During the absence of organizations of the active militia in the service of the United States, their State designations shall not be given to new organizations.

**MUSTER OF UNORGANIZED MILITIA.**

Sec. 14. (As amended by Sec. 6, Act 264, 1916, p. 543). Be it further enacted, etc., That the portion of the unorganized militia ordered out or accepted into the service as indicated in Sections 5 and 9 of this act, shall be immediately mustered into the service for such period as the Governor may direct and shall be organized into troops, batteries, companies and such other organizations as may be necessary, which may be arranged in squadrons, battalions, regiments or corps or assigned to organizations of the active militia already existing. The Governor is authorized to appoint the officers necessary to commence or complete or to command any organization thus created. Such new organizations shall be equipped, disciplined and governed according to the military laws and military regulations of this State.

**NATIONAL GUARD, STAFF, ETC., DEPARTMENTS.**

Sec. 15. (As amended by Sec. 7, Act 264 of 1916, p. 543). Be it further enacted, etc., That the National Guard of the State shall consist of the necessary staff departments, medical departments, the commissioned officers heretofore or hereafter retired, the organizations forming the National Guard at the date of the adoption hereof and such other unit or units as may be prescribed from time to time by the President, and such persons as are or may be enlisted or commissioned therein; but nothing in this act shall be construed as releasing or discharging any officer or enlisted man, now a member of the National Guard, or Naval Militia of this State, from his obligations as such. The Commander-in-Chief shall have power to alter, divide, consolidate or reorganize any organization or corps and to create new organizations and corps whenever required by the provisions of this section or by any law of the United States or by any order or regulation made in pursuance thereof, or whenever in his judgment the efficiency of the State forces will thereby be increased; and he shall have power and it shall be his duty to change the organization of the State forces so as to conform to any system or organization, drill or instruction now or hereafter prescribed by any law of the United States, or order or regulation made pursuant thereto, for the organization or government of the active militia; and for that purpose the number of officers and non-commissioned officers of any grade may be increased or decreased, or their grades may be altered, whenever necessary to obtain such conformity. Whenever a National Guard is organized by order of the Commander-in-Chief into a brigade, a brigadier general shall be selected as prescribed in Section 30 to command the same.

**COMMANDING OFFICER—SALARY.**

Sec. 16. Be it further enacted, etc., That the commanding officer of the National Guard shall serve without salary and receive pay only when ordered on duty by the Governor, and under the same conditions as permitted by this Act to other officers of the line. There shall be allowed annually the necessary mileage expenses of the commanding officer of the National Guard and his staff officers when traveling on duty and under orders as well as the office expenses, including printing, postage, express age and clerical services.

**REGULATIONS FOR GOVERNMENT OF FORCES.**

Sec. 17. (As amended by Section 8, Act 264, 1916, p. 544). Be it further enacted, etc., That the Governor is hereby authorized, and it shall be

his duty, as soon as practicable as the passage of this Act, to make in public regulations in accordance with existing military laws for the government of the military forces of this State, which shall embrace all necessary orders and forms, of a general character, for the performance of all duties incumbent on officers and men in the military service, including rules for the government of court martial, the existing regulations to remain in force until the Governor shall have published such regulations. The Governor shall, as he may see fit from time to time, create new regulations, or amend, modify, or repeal the existing regulations. But all such regulations shall be subject to the laws of the United States and to the orders and regulations made pursuant thereto.

#### **GOVERNOR'S STAFF.**

Sec. 18. (As amended by Sec. 9, Act 264, 1916, p. 544). Be it further enacted, etc., That the Governor shall have a staff, consisting of Adjutant General, who shall rank as the Brigadier-General, and Assistant General, with the rank of major, and a Quartermaster General, with the rank of major. In addition he shall have not to exceed twenty aide-de-camps, to rank as follows: Six colonels, six lieutenant colonels, six majors, one captain an done naval aide with the rank of lieutenant commander, who shall be appointed by and serve during the pleasure of the Governor. The ranking unit commanders in each branch of the military service of the State may also be detailed by order of the Governor to serve on his staff as aides-de-camp.

#### **RANK OF ADJUTANT GENERAL.**

Sec. 19. (As amended by Act 130 of 1918.) Be it further enacted, etc., That the Adjutant General shall have the rank of Brigadier General, and shall be appointed by the Governor, by and with the consent of the Senate if in session. The Adjutant General shall hold his office for a term of four years and until the appointment and qualification of his successor in office. In case of a vacancy in such office, the appointment shall be made for the unexpired term only. There shall be allowed to the Adjutant General of the State for his salary, payable monthly on his own warrant, \$2,400.00 annually; and the necessary mileage and office expenses, clerical help, printing, stationery, postage, telephone and expressage, shall also be allowed; provided, that during the period of the war in which the United States is engaged and for one year thereafter, the Adjutant General shall receive one thousand two hundred dollars (\$1,200) additional in salary to be paid as above indicated.

Note. Act 45, 1900, p. 56, gave to the Adjutant General the rank of Major General.

#### **SEAL OF OFFICE.**

Sec. 20. Be it further enacted, etc., That the seal now used in the office of the Adjutant General shall be the seal of his office and shall be delivered by him to his successor.

#### **AUTHORITY OF ADJUTANT GENERAL.**

Sec. 21. Be it further enacted, etc., That the Adjutant General shall be in control of the military department of this State and subordinate only to the Governor in matters pertaining to said department or military forces of this State; and he shall perform such duties as may, from time to time be entrusted to him by the Governor relative to the military commissions, the military forces, the military stores and supplies, or to other matters respecting military affairs of this State; and he shall conduct the business of the department in such manner as the Governor shall direct. And he shall have the custody and charge of all books, records, papers, furniture, fixtures and other property relating to his department and shall perform, as near as practicable, such duties as pertain to the Chief of Staff, the military secretary and other chiefs of staff departments, under the regulations and customs of the United States Army.

**DUTIES OF ADJUTANT GENERAL.**

Sec. 22. Be it further enacted, etc., That the Adjutant General, from time to time, shall define and prescribe the kind as well as the amount of supplies to be purchased for the military forces of this State, and the duties and powers respecting such purposes; and shall prescribe general regulations for the transportation of the articles of supply from the places of purchase to the several camps, stations of companies, or other necessary places for the safe-keeping of such articles, and for the distribution of an adequate and timely supply of the same to the regimental quartermasters, and to such other officers as may, by virtue of such regulations be entrusted with the same; and shall fix and make reasonable allowances for the store rent and storage necessary for the safe-keeping of all military stores and supplies; and shall control and supervise the transportation of troops, munitions of war, equipments, military property and stores, throughout the State.

**RULES AND REGULATIONS.**

Sec. 23. Be it further enacted, etc., That the Adjutant General is authorized to prescribe regulations not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, the custody, use and preservation of the records, papers, and property appertaining to it.

He shall superintend the preparation of such returns and reports as may be required by the laws of the United States from this State, and perform such other duties prescribed for him by this act or by other laws of this State, or by the Governor.

He shall keep a register of all officers of the militia of this State, and keep in his office all office records and papers required to be kept and filed therein.

He shall make such regulations pertaining to the preparation of the reports and returns, and to the care and preservation of property for military purposes, whether belonging to this State or to the United States, as in his opinion the conditions demand; such regulations to be operative and in force when promulgated in the form of general orders, circulars or letters of instruction.

He shall report annually to the Governor:

A statement of all moneys received and disbursed by him since his last annual report.

An account of all arms, ammunition and other military property belonging to this State, or in the possession of this State, from what source received, to whom issued, and its present condition, as far as he may be informed.

The number, condition and organization of the Louisiana National Guard and reserve militia.

Any suggestions which he may deem of importance to the military interest and conditions of this State, and the perfection of its military organizations.

**ANNUAL REPORTS.**

Sec. 24. Be it further enacted, etc., That the annual report provided for in the preceding section shall be printed annually and laid before the Legislature for its information.

**ASSISTANT ADJUTANT GENERAL AND OTHER OFFICERS.**

Sec. 25. Be it further enacted, etc., That the Adjutant General shall have one Assistant Adjutant General, with the rank of Major; one Quartermaster General, with rank of Major, and such necessary clerks, employees and laborers as may be required from time to time to carry on the operations of his department, all of whom shall be under the direction and control of the Adjutant General.

**APPOINTMENT OF ASSISTANT ADJUTANT GENERAL, ETC.**

Sec. 26. (As amended by Section 11, Act 264, 1916, p. 545). Be it further enacted, etc., That the Assistant Adjutant General shall be appointed by the Governor on the recommendation of the Adjutant General, and shall re-

main in office during the pleasure of the Adjutant General. He shall receive an annual salary of fifteen hundred dollars, and shall during his term of office, be entitled to all rights, privileges and immunities granted officers of like rank in the Louisiana National Guard. He shall, before entering upon the duties of his office take and subscribe to the oath of office prescribed for officers of the Louisiana National Guard, which oath shall be deposited in the office of the Adjutant General. He shall aid the Adjutant General by the performance of such duties as may be assigned to him, and shall, in case of absence or inability of the Adjutant General to act, perform all such portions of the duties of the Adjutant General as the latter may expressly delegate to him.

#### **QUARTERMASTER GENERAL.**

Sec. 27. Be it further enacted, etc., That the Quartermaster General shall be appointed by the Governor on the recommendation of the Adjutant General, and shall remain in office during the pleasure of the Governor, and until his successor is appointed and qualified. He shall receive a salary of fifteen hundred dollars, annually, payable monthly on his own warrant. In addition to this he may, by authority of the Adjutant General, employ laborers, as required. The necessary traveling and office expenses, including printing, stationery, postage, freight and expressage, and shall also be allowed, and he shall, during his term of office, be entitled to all rights, privileges and immunities granted officers of like ranks in the Louisiana National Guard.

He shall, before entering upon the duties of his office enter into a bond with two or more good and sufficient securities, to be approved by the Governor, which bond shall be in the sum of ten thousand dollars, payable to the Governor of this State and his successors in office, and conditioned faithfully to discharge the duties of his office; and disburse and account for all monies, and faithfully to keep, issue and account for all military stores, supplies and other property of this State or of the United States coming into his possession or entrusted to his care for the use of the military forces of this State.

He shall take and subscribe the oath of office prescribed for officers of the Louisiana National Guard, which oath and bond shall be deposited in the office of the Adjutant General.

He shall, under the immediate direction of the Adjutant General, perform, as near as may be the duties pertaining to the Chiefs of the quartermaster, subsistence and ordnance departments under the regulations and customs of the United States Army.

He shall, upon assuming the duties of his office, receipt to the Adjutant General for all military property of whatever kind belonging to this State or to the United States, which may be on hand and intended for the use of or issue to the military forces of this State, and he shall also receipt to the Adjutant General for such other military property as may from time to time be received from the United States or from other sources.

He shall be responsible for all quartermaster, subsistence, ordnance, medical, signal, and other military stores and supplies belonging to this State, or which may be issued to this State by the United States, except such of the above mentioned stores and supplies as may be issued to officers and organizations of the military forces of this State, and receipt therefor in accordance with the regulations in force.

He shall issue and receive such quartermaster, subsistence, ordnance, medical, signal and all other military stores and supplies as the Governor or the Adjutant General may direct.

He shall attend to the care, preservation, safe-keeping and repairing of the arms, ordnance, accoutrements, equipment and all other military property belonging to this State, or issued to this State by the United States for the purpose of arming and equipping the military forces of this State.

He shall prepare such returns of all quartermasters, subsistence, ordnance, medical, signal, and other military stores and supplies that have been issued to this State by the United States at the time and in the manner required by the Secretary of War, and shall render semi-monthly to the Ad-

Adjutant General returns of all military stores and supplies on hand or issued, in such manner as required by the Adjutant General.

He shall render to the Adjutant General annually, or oftener if required, a statement of all monies received or disbursed by him since last report.

**GOVERNOR TO COMMISSION ALL OFFICERS, ETC.**

Sec. 28. (As amended by Section 12, Act 264, 1916, p. 545). Be it further enacted, etc., That all officers in the military service of this State shall be commissioned by the Governor in his discretion and in conformity to the laws of the United States and the orders and regulations made pursuant thereto, and no one shall be recognized as an officer unless he shall have complied with all the provisions of this Act and of the laws of the United States in such cases provided and the orders and regulations made pursuant thereto. All commissions in the military service of this State shall be in the name and by the authority of the State of Louisiana, sealed with the State seal, signed by the Governor, and attested by the Adjutant General and recorded in the record book kept in his office for that purpose.

**COMMISSIONED OFFICERS MUST BE CITIZENS.**

Sec. 29. (As amended by Sec. 13, Act 264, 1916, p. 545). Be it further enacted, etc., That commissioned officers must be citizens of the United States and permanent residents of this State between the ages of 21 and 64 years; except such officers and enlisted men in the regular army who may under the laws of the United States be eligible for commissions in the National Guard; that staff officers including officers of the pay, inspection, subsistence and medical departments, and hereafter appointed shall have had previous military experience and shall hold their position until they shall have reached the age of sixty-four years unless retired prior to that time by reason of resignation, disability, or cause to be determined by court martial legally convened for that purpose; that vacancies amongst said officers shall be filled by appointment from the officers of the militia of this State. That all field officers shall be appointed by the Governor on the recommendation of the commanding officer of the organization in which they are to serve; that all regimental staff officers shall be appointed by the Governor on the recommendation of the commanding officer of the regiment; that all battalions and squadron staff officers shall be appointed by the Governor on the recommendations of the commanding officer of the battalion or squadrons and of the commanding officer of the regiment; that non-commissioned staff officers shall be appointed by the commanding officer of the regiment or separate battalion or squadron in which they are to serve; that all officers of companies, troops, and batteries, other than being newly organized shall be appointed by the Governor, upon the recommendation of the company, troop or battery commander, battalion and regimental commanders; provided that promotions shall be made, whenever deemed advisable by the Adjutant General, by seniority within the units. That for all units being newly organized appointment of officers shall be made by the Governor upon the recommendation of the Adjutant General, subject to such conditions as the Adjutant General may prescribe in conformity with the laws of the United States and of the State of Louisiana.

**BRIGADIER GENERAL.**

Sec. 30. Be it further enacted, etc., (a) That the Brigadier General shall be appointed by the Governor upon the recommendation of the Adjutant General.

(b) The necessary staff officers to compose the staff of the Brigadier General to be appointed by the Governor upon the recommendation of the Brigadier General.

(c) All Field Officers shall be appointed by the Governor upon the recommendation of the ranking unit commanders in each branch of the service.

(d) Staff Officers of same to be appointed by the Governor, subject to the recommendation of the commanding officer upon whose staff they will serve.

(e) Non-commissioned staff to be warranted by the commanding officer upon whose staff they will serve.

(f) Officers of Companies, Troops, Batteries and Corps shall be elected by the bona fide members of such organization as shown by the last muster roll thereof and the necessary orders for such election shall be issued by the commanding officer of the regiment, battalion or squadron and by the commanding officer of the National Guard in case of separate batteries, troops, corps or companies.

Each officer or enlisted man will cast a ballot in secret and if not possible to be present at the election, may vote by addressing a sealed envelope, containing his ballot, which will be placed in the ballot box by the officer presiding at the election.

#### **PHYSICAL EXAMINATION BEFORE PROMOTION.**

Sec. 31. (As amended by Sec. 14, Act 264, 1916, p. 546). Be it further enacted, etc., That before receiving a commission consequent upon the original appointment, or before being commissioned to a higher grade as a result of promotion, every officer shall first have successfully passed the prescribed physical, moral and professional examination by a board appointed by the Secretary of War from the Army of the United States or of the National Guard or both, in conformity to the laws of the United States and orders and regulations made pursuance thereto.

#### **POWERS OF BOARD OF EXAMINERS.**

Sec. 32. (As amended by Sec. 15, Act 264, 1916, p. 546). Be it further enacted, etc., That such board shall have the same power to take evidence, administer oaths, compel witnesses to attend and testify and produce books and papers, and to punish their failure to do so as is possessed by a general court martial.

#### **GOVERNOR MAY CONFER BREVET COMMISSIONS.**

Sec. 33. Be it further enacted, etc., That the Governor may, upon the recommendation of the commanding officers, confer brevet commissions of a grade higher than the ordinary or brevet commissions ever held by them, upon officers of the military service of this State for gallant conduct, or meritorious service of not less than twenty-five years. He may also confer upon officers in active service in the military service of this State, who have previously served in the forces of the United States in time of war, brevet commissions of a grade equal to the highest grade in which they had previously served. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military service of the United States.

#### **OFFICERS ON SUPERNUMERARY LISTS.**

Sec. 34. Be it further enacted, etc., That officers who shall be rendered surplus by reduction or disbandment of organizations, or in any manner provided by this act, now or hereafter, shall at the discretion of the Governor be withdrawn from actual service, and placed upon the supernumerary list. The Governor may detail supernumerary officers for active duty, in which case they shall rank in their grade from the date of such detail, and he may relieve them from such duty and return them to the supernumerary list at his discretion.

#### **WHEN OFFICERS ARE TO BE RETIRED.**

Sec. 35. Be it further enacted, etc., That any officer of the active militia who has reached the age of sixty-four years shall be placed upon the retired list by the Governor. Any officer who shall have served as an officer in the same grade in the military service of this State for a continuous period of not less than eight years, may, upon his own request, be placed upon the retired list and withdrawn from active service and command by the Governor. Any officer who has become, or who shall hereafter become disabled, and thereby incapable of performing the duties of his office, shall be withdrawn from active service and command and

placed on the retired list by the Governor. Any officer who has become or who shall hereafter become unfit or incompetent, and thereby incapable of performing the duties of his office, shall be discharged upon the recommendation of his commanding officer. Such retirement or discharge shall be by order of the Governor, and in either case, shall be subject to the provisions of this Section. Before making such order, the Governor shall, at his discretion, appoint a board of not less than five commissioned officers, one of whom shall be a surgeon, whose duty it shall be to determine the facts as to the nature and cause of incapacity of such officer as appears disabled or unfit, or incompetent, from any cause, to perform military service, and whose case shall be referred to it. No officer whose grade or promotion would be effected by the decision of such board, in any case that may come before it, shall participate in the examination or decision of the board in such case. Such board is hereby vested with the powers of courts of inquiry and courts martial and whenever it finds an officer incapacitated for active service shall report such fact to the Governor, stating cause of incapacity, whenever from disability, unfitness or incompetency, and if he approves such finding, such officer shall be placed on the retired list or discharged, as herein provided. The members of the board shall, before entering upon the discharge of their duties, be sworn to an honest and impartial performance of their duties as members of such board. No officer shall be placed upon the retired list or discharged by the action of such board, if appointed by the Governor, without having had a fair and full hearing before the board, if upon the notice he shall demand it, and the Governor in his discretion shall think proper, to appoint such board. It shall not be necessary to refer any case for the action of such board arising under this section, unless the officer designated to be placed on the retired list or discharged shall within twenty days after being notified that he will be so retired or discharged, serve on the Adjutant General a notice in writing that he demand a hearing and examination before such board, and the Governor approves such demand. The Governor may withdraw from active service and command and place upon the retired list any officer who has been twenty-five years in the military service of the State, on the recommendation of the commanding officer of his organization, and the commanding officer of the brigade. Vacancies created by the operation of this section shall be filled in the same manner as other vacancies.

#### **BOARD OF EXAMINATION.**

Sec. 36. Be it further enacted, etc., That the Governor may, whenever he may deem that the good of the service requires it, order any officer before a board of examination, to consist of not less than three nor more than five officers above the grade of captain, which is hereby vested with the powers of courts of inquiry and courts martial, and such board shall examine into the moral character, capacity and general fitness for the service of such officer, and record and return the testimony taken and a record of its proceedings. If the findings of such board shall be unfavorable to such officer and be approved by the Governor, he shall be discharged from the service. No officer whose grade or promotion would be in any way affected by the decision of such board in any case that may come before it shall participate in the examination or decision of the board in such case. Failure to appear when ordered before a board constituted under this section shall be a sufficient ground for a finding by such board that the officer ordered to appear be discharged.

#### **OFFICERS CANNOT BE REMOVED WITHOUT TRIAL—COURT MARTIAL.**

Sec. 37. Be it further enacted, etc., That a commissioned officer cannot be removed from office without his consent, except by order of the Governor, after having been given a hearing, the sentence of a general court martial, or as provided in this section.

#### **VOLUNTEER ENLISTMENT IN MILITIA.**

Sec. 38. Be it further enacted, etc., That any male citizen of the United States, or any male who has declared his intention to become such

citizen who is a permanent resident of this State, if more than eighteen and less than forty-five years of age, ablebodied, free of disease, and of good character and temperate habits, may voluntaritly enlist in the active militia of this State; provided persons who are over eighteen and under twenty-one years of age may be enlisted upon the written approval and special consent thereto of his parents or legal representatives; provided that a male minor above the age of eighteen fully emancipated by law may be enlisted upon the production of a certified copy of the judgment of emancipation.

**ENLISTMENT IN NATIONAL GUARD.**

Sec. 39. (As amended by Sec. 16, Act 264, 1916, p. 549). Be it further enacted, etc., That all enlistments in the National Guard of this State shall be for six years, the first three years in an active organization and the remaining three years in the National Guard reserve, as provided for by the laws of the United States, and qualifications for enlistment shall be the same as are now or may hereafter be prescribed for admission to the Regular Army of the United States, and no soldier shall be again enlisted in the National Guard of this State whose services during his last preceding term of enlistment has not been honest and faithful.

**OATH OF MEN ENLISTING.**

Sec. 40. Be it further enacted, etc., That every person who enlists or re-enlists in the active militia of this State shall sign and make oath to an enlistment paper, which shall be filed in the office of the Adjutant General. Such oaths shall be taken and subscribed to before a field officer, or the commanding officer of a signal corps, troop, battery or company, who is hereby authorized to administer such oaths as may be taken before any officer authorized by the laws of this State to administer oaths. A person making a false oath to any statement contained in such enlistment paper shall, upon conviction, be deemed guilty of false swearing and punished accordingly.

**MINORS MUST HAVE CONSENT OF PARENTS, ETC.**

Sec. 41. Be it further enacted, etc., That no minor over the age of eighteen years shall be enlisted without the written consent of his parents or legal representatives. A man who has been expelled or dishonorably discharged from the military service of this State or of the United States shall not be eligible for enlistment or re-enlistment unless he produces the written consent to such enlistment of the commanding officer of the organization from which he was expelled or dishonorably discharged, and of the commanding officer who approved such expulsion or issued such dishonorable discharge.

**APPOINTMENT OF NON-COMMISSIONED OFFICERS.**

Sec. 42. (As amended by Sec. 17, Act 264 of 1916, p. 547.) Be it further enacted, etc., That commanding officers of regiments, battalions and squadrons not part of regiments shall appoint and warrant the non-commissioned staff officers of their respective regiments, battalions or squadrons, and they shall, in their discretion, warrant the non-commissioned officers of the troops, batteries and companies of their respective regiments, battalions and squadrons, from the members thereof, upon the written nomination of the commanding officer of the troops, batteries and companies, respectively. In troops, batteries and companies not a part of a regiment, battalions or squadrons, and in signal and hospital corps, the non-commissioned officer shall be warranted by the commanding officer thererof in his discretion, from the members of such organization. A sergeant of the hospital corps must be appointed from the hospital corps. The officer warranting a non-commissioned officer shall have power to reduce to the ranks for good and sufficient reasons a non-commissioned officer named in this section.

**REENLISTMENT OF DISCHARGED MEN, ETC.**

Sec. 43. Be it further enacted, etc., That men who have been dis-

charged by reasons of disbandment may be re-enlisted, and shall then receive credit for the period served at the time of such disbandment. A man discharged for physical disability shall, if such disability cease and he again enlists, receive credit for the period served prior to such discharge.

**SERVICE DECORATIONS FOR THOSE REENLISTING.**

Sec. 44. Be it further enacted, etc., That in order to encourage re-enlistment and continuity of service, the Commander-in-Chief shall cause the Adjutant General to provide a service decoration for issue to members of the service. And to be governed by such regulations as the Commander-in-Chief may authorize. He will also authorize the wearing of a service stripe on the sleeve, subject to such regulations as may be prescribed.

**APPOINTMENT OF SECOND LIEUTENANTS.**

Sec. 45. Be it further enacted, etc., That the Governor may appoint and commission enlisted men (who have served well and faithfully in the active militia of this State for a period of not less than twenty-five years) without examination, second lieutenants by brevet; provided such enlisted men so appointed and commissioned shall be immediately placed on the retired list.

**RESPONSIBILITY FOR PROPERTY.**

Sec. 46. Be it further enacted, etc., That an officer or enlisted man who has not returned all the public property for which he is responsible shall, under no circumstances, receive an honorable discharge.

**TRANSFER FROM ONE TO ANOTHER ORGANIZATION.**

Sec. 47. Be it further enacted, etc., That any enlisted man upon his own application, with the approval of the commanding officers of the organization from which and to which he is to be transferred, may be transferred from one organization to another in the National Guard, after said application has been approved by the commanding officer of the National Guard.

**OFFICERS MUST GIVE BOND WHERE REQUIRED.**

Sec. 48. Be it further enacted, etc., That when required to do so by the Governor, any officer of the active militia of this State shall give good and sufficient bond in such sums as the Adjutant General may direct, payable to the Governor of this State, and his successors in office, conditioned, faithfully to discharge the duties of his office, and to expend all public money of this State and account for the same, and to account for and safely keep all public property of this State, or of the United States, issued or intended for use of the military forces of this State, which he may receive from time to time, and to promptly turn over the same to whomever the Governor may direct. Such bond shall be signed, executed and guaranteed by any corporation legally authorized and qualified guarantee the fidelity of persons holding positions of public or private trust, and authorized to carry on business in this State; such bond shall be in such sum as may be prescribed by the Adjutant General, and shall be approved by him and filed in his office; and such bond shall not extend to the reasonable wear and tear of arms, equipments, and other military supplies, incident to the military service; provided, that the commanding officer of every troop, battery, company or signal corps, and the chief musician of every band mustered into the military service of this State shall file the bond provided by this section, in the office of the Adjutant General, before the commission of such officer shall be issued, or any arms, uniforms, equipments, or other military property shall be issued for the use of his organization; and provided further, that when required to do so by the Governor any non-commissioned officer or enlisted man of the military forces of this State shall make out and file the bond as provided by this section. All suits or other judicial proceedings relating to said bonds shall be brought by the Governor in the name of the State of Louisiana

through the Attorney General, or the District Attorney of the jurisdiction at the domicile of the principal.

**COPIES OF BONDS MUST BE FILED WITH ADJUTANT GENERAL.**

Sec. 49. Be it further enacted, etc., That copies of all bonds and other papers filed in the office of the Adjutant General, in accordance with the provisions of this act, or any other law of this State, certified under the hand and seal of office of the Adjutant General, shall be admitted in evidence in all courts of this State, in the same manner and with like effect as the original would be duly proven.

**FORMATION OF ASSOCIATIONS, ETC.**

Sec. 50. Be it further enacted, etc., That the officers of any regiment, or battalion or squadron not part of a regiment and members of any troops, battery, company, or signal corps, hospital corps, or field music, may organize themselves into an association, of which the commanding officer shall be president, and by a vote of two-thirds of all their members, for by laws, rules and regulations not inconsistent with this section, and which shall conform to the system prescribed in general regulations and be approved by the command-in-chief, and when approved by him such by-laws, rules and regulations shall be binding upon all commissioned officers and enlisted men therein, but they may be altered in the manner provided for their adoption from time to time, as may be found necessary.

**DEDUCTION FROM PAY FOR DUES.**

Sec. 5. Be it further enacted, etc., That the commanding officer of any troop, battery, company, signal corps or hospital corps, or band, is hereby authorized to deduct from any State pay or Federal pay which may be disbursed through him for military services due any officer or enlisted man of his organization, such amount as such officer or enlisted man may owe his organization for dues and fines, as provided by the by-laws of such organization.

**PHYSICAL EXAMINATION.**

Sec. 52. Be it further enacted, etc., That no applicant for appointment or enlistment in the active militia of this State, will be commissioned or enlisted without first passing a satisfactory physical examination, prescribed by the Adjutant General.

**PAYMENT FOR ARMY, ETC., LOSS.**

Sec. 53. Be it further enacted, etc., That the cost of arms, equipment and all other military supplies and stores, and the cost of repair or damage done to arms, equipment and all other military supplies and stores, shall be deducted from the pay of any officer or soldier in whose care or use the same were when such loss, destruction or damage occurred, if said loss, destruction or damage was occasioned by the carelessness, neglect, fault or abuse of said officer or soldier.

**CUSTODIAN OF STATE FUNDS.**

Sec. 54. Be it further enacted, etc., That the commanding officer of each organization shall be the custodian of the State funds placed in his hands for the use of his command, and it shall be his duty to receive, safely keep, and properly disburse, as may be required by the Governor, all money that may be entrusted to his care, and to render, on June 30th and December 31st, of each year, to the Adjutant General, an itemized statement of all money by him received or disbursed for the preceding six months.

**NO FEE FOR ADMINISTERING OATH.**

Sec. 55. Be it further enacted, etc., That no officer, civil or military, shall be entitled to charge or receive any fee or compensation for administering or certifying any oath administered or certified under the provisions of this Act.

**PROPERTY MUST NOT BE LOANED FOR PRIVATE USE.**

Sec. 56. Be it further enacted, etc., That no officer or enlisted man of the active militia of this State having property in charge shall loan for private use, or permit to be used for any other purpose than the legitimate purpose intended any public property that he may be responsible for to the Governor. All property issued to a brigade, regimental, battalion or company commander, or to any band, corps or auxiliary squad, or to any military organization whatever, when not in legitimate use, shall be carefully stored and protected from waste, theft, loss or injury.

**TAKING STATE PROPERTY.**

Sec. 57. Be it further enacted, etc., That any enlisted man taking any government or State property from any armory without the consent of his company commander shall be considered as appropriating government or state property to his own use and may be tried in any court of competent jurisdiction, and on conviction thereof shall suffer a fine in any sum not exceeding twenty-five dollars, (\$25.00), together with the costs of such government or State property, or imprisonment in the parish jail for a period not exceeding thirty days, or shall suffer both such fine and imprisonment at the discretion of the court.

**POWER TO EXCUSE.**

Sec. 58. Be it further enacted, etc., That the officer ordering any military duty shall have the power to excuse any officer or enlisted man for absence therefrom upon good and sufficient grounds.

**OFFICERS MUST SUPPLY ARMS, ETC.**

Sec. 59. Be it further enacted, etc., That every officer shall provide himself with the arms, uniform and equipments prescribed and approved by the Governor within three months after the issue of his commission.

**DISCIPLINE AND EXERCISE.**

Sec. 60. (As amended by Sec. 18, Act 264, 1916, p. 547). Be it further enacted, etc., That the system of discipline and exercise of the active militia of this State shall conform to that of the army and navy of the United States as it is now or may hereafter be prescribed by the President, and to the provisions of the laws of the United States. Matters of military courtesy and discipline; precedents of regiments and corps; details and working parties; special duty; official designation and duties of officers; records; flags; colors and standards; instruction and administration of regiments, battalions and companies; interior economy of companies; rosters, detachments and daily service; honors, courtesies and ceremonies; guards practical and theoretical instructions; care, accountability and responsibility for public property, surveys of property; staff administration and general duties of the staff corps; military troops and battle reports; arrests and confinement, and field service, shall be as now or hereafter prescribed in the regulations of the Army and Navy of the United States.

**ARMS, ETC., FOR ORGANIZATIONS.**

Sec. 61. Be it further enacted, etc., That all organizations shall be provided by this State with such arms, equipments, books of instructions and of records and other supplies as may be necessary for the proper performance of the duty required of them by this Act; and each organization shall keep such property in proper repair and in good condition.

**APPROPRIATION FOR EXPENSES.**

Sec. 62. Be it further enacted, etc., That the Police Jury of each Parish and the Municipal authorities of each municipality in this State, where any command of the National Guard of Louisiana is organized and maintained, are hereby authorized and empowered, in their discretion, to appropriate and pay annually to such command a sum not exceeding twelve hundred dollars to assist in defraying the necessary expenses of such command. And the Police Jury of each said Parish and the municipal authorities of each City, Town or Village, are hereby required,

whenever practicable, to provide free of cost a suitable and adequate armory for the commands organized and permanently stationed in such Parish, City, Town or Village. Hereafter all Police Juries and Municipal authorities of each city, town and village, shall, if practicable, when constructing new parish courthouses, city, town or village halls, provide an armory suitable and adequate for the requirements of that force of the National Guard of Louisiana, there organized and permanently stationed.

**EXEMPTION FROM ARREST.**

Sec. 63. Be it further enacted, etc., That no persons belonging to the active militia of this State shall be arrested on any civil process while going on duty or returning from any place at which he may be required to attend for military duty, except in cases of treason, felony or breach of the peace.

**RIGHT OF WAY FOR PARADES, ETC.**

Sec. 64. Be it further enacted, etc., That the commanding officer of any portion of the active militia of this State parading or performing any military duty in any street or highway may require any and all persons in such streets or highways to yield the right of way of such militia; provided, that, carriage of the United States mails, the legitimate functions of the police and the progress and operation of hospital ambulances, fire engines and fire departments shall not be interfered with thereby.

**MOLESTING, ETC., MEMBERS OF NATIONAL GUARD.**

Sec. 65. (As amended by Sec. 19, Act, 264, 1916, p. 547). Be it further enacted, etc., That whoever shall unlawfully molest, insult or abuse any member of the National Guard or Naval Militia while in the actual performance of his duty or while in uniform during the time he is in the service of the State or of the United States shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not to exceed fifty dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment.

**FREEDOM FROM TOLL ON FERRIES, ETC.**

Sec. 66. Be it further enacted, etc., That any person belonging to the military forces of the State, going to or returning from any parade, encampment, drill or meeting, which he may be required by law to attend, shall together with his conveyance and military property of the State in his charge, be allowed to pass free through all toll gates and over all toll bridges and ferries if he is in uniform or presents an order for duty.

**PENALTY FOR VIOLATIONS.**

Sec. 67. Be it further enacted, etc., That whosoever shall violate the provision of this Section shall be deemed guilty of a misdemeanor and on trial and conviction thereof shall pay a fine for each offense of not less than twenty-five nor more than one hundred dollars or be imprisoned for not more than ten days or both at the discretion of the Court.

**WHO MAY WEAR UNIFORM.**

Sec. 68. Be it further enacted, etc., That every person, other than an officer, or enlisted man of the active militia of this State, or of any other State or a member of any service of the United States for whom such uniform has been prescribed by proper authority, or inmate of any veterans' or soldiers' home, or member of the Grand Army of the Republic, of the Sons of Veterans, who at any time wear the uniform of the United States Army or Navy or active militia of this State, or any part of a uniform similar thereto, within the limits of this State, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding fifty dollars, or by imprisonment in the parish jail not exceeding sixty days or by both such fine and imprisonment; provided, that nothing in this act shall be construed as prohibiting persons of the theatrical profession from wearing such uniforms in any playhouse or theatre while actually engaged in following said profession, and provided that nothing

in this act shall be construed as prohibiting the uniform rank of civil societies parading or traveling in a body or assembling in a lodge room. All money recovered by any action or proceeding under this section shall be paid to the Adjutant General who shall apply same to the use of the active militia of this State.

#### **ILLEGAL MILITARY ORGANIZATIONS.**

Sec. 69. Be it further enacted, etc., That no body of men, other than the regularly organized militia of this State and the troops of the United States, shall associate themselves together as a military company or organization or parade in public with firearms in any city or town of this State; but students in the educational institutions where military science is a prescribed part of the course of instructions, and soldiers honorably discharged from the service of the United States, and Confederate Veterans may, with the consent of the Governor, drill and parade with firearms in public. This section shall not be construed to prevent parades by the active militia of any other State as hereinafter provided.

#### **WHEN MILITIA WILL BE CALLED.**

Sec. 70. (As amended by Sec. 20, Act 264, 1916, p. 548). Be it further enacted, etc., That when an invasion or insurrection in this State is made or threatened the Governor shall have power to call forth the active militia or any part thereof to repel, suppress the same, and if the number available is insufficient he shall order out such parts of the reserve militia as he may deem necessary.

#### **WHEN MILITIA WILL BE CALLED—TUMULT, RIOT, ETC.**

Sec. 71. (As amended by Sec. 21, Act 264, 1916, p. 548). Be it further enacted, etc., That when there is, in any parish, city, or town in this State, tumult, riot or body of men acting together by force, with intent or breach of the peace, or to do violence to person or property, or by force to break or resist the laws of this State or when such tumult, riot, mob or other unlawful act or violence is threatened, and that fact is made to appear to the Governor, the Sheriff or the mayor of any city, town or village or any District Judge, he may issue his order to any commander of any brigade, regiment, battalion, squadron, troop, battery or company of the active militia of this State to appear at the time and place directed to aid the civil authorities to suppress or prevent such violence and executing the laws, provided, whenever the necessity for military aid in preventing or suppressing such violence and in executing the laws is immediate and urgent, and it is impracticable to furnish such information to the Governor in time to secure military aid by his order, the Judge of the District Court, the Sheriff of such parish, or the mayor of such city or town, in which the disturbance occurs may call for aid upon the commanding officer of the active militia stationed therein or adjacent thereto; such cause shall be in writing and the civil officer making the call shall as soon as possible notify the Governor of his action.

#### **WHEN MILITIA WILL BE CALLED—PUBLIC STRESS, FLOOD, ETC.**

Sec. 72. Be it further enacted, etc., That in the event of public stress, danger from flood, configuration, or tempest, the senior officer of a command, upon the request of the mayor of a city or sheriff of a parish, may order out for the protection of the community the forces under his command, or any part thereof, and immediately report his action and the circumstances of the case to the Governor and to his immediate commanding officer.

#### **OFFICER IN COMMAND NAMED BY GOVERNOR.**

Sec. 73. Be it further enacted, etc., That the officer to whom the order of the Governor or the call of the civil authority is directed, shall upon its receipt, forthwith order his command, or such portion thereof as may be ordered or called for, to parade at the time and place appointed, and shall immediately notify the Governor of his action.

**ORDERS OF CIVIL AUTHORITIES.**

Sec. 74. Be it further enacted, etc., That when such troops have appeared at the appointed place the commanding officer thereof shall obey and execute such general instructions, which shall be in writing if practicable, otherwise verbal instructions given in the presence of two or more credible witnesses, as he may there and then receive from the civil authorities charged by law with the suppression of riot or tumult, or the preservation of the public peace, but such commanding officer shall exercise his discretion as to the proper method of practically accomplishing the instructions received, the kind and extent of force to be used and the particular means to be employed to accomplish the objects specified by the civil authority shall be left solely to such commanding officer.

**GUARDING PRISONERS.**

Sec. 75. (As amended by Sec. 22, Act 264, 1916, p. 548). Be it further enacted, etc., That the Governor at the request of the civil authorities may order the active militia or any part thereof to assist such authorities in guarding prisoners, or in conveying prisoners from and to any point in this State, or in discharging other duties in execution of the laws.

**ENFORCEMENT OF LAW.**

Sec. 76. Be it further enacted, etc., That whenever any part of the active militia of this State is on active duty pursuant to the order of the Governor, or call of civil authority, to aid in the enforcement of the law, the commanding officer of such troops may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the selling, bartering, lending or giving away of any of the said articles so long as any of the troops remain on duty in such place, or in the vicinity where such place may be located, whether any civil officer has forbidden the same or not.

**ARTICLES OF WAR GOVERN.**

Sec. 77. Be it further enacted, etc., That whenever any portion of the militia shall be on duty under or pursuant to the order of the Governor, or shall be on duty or ordered to assemble for duty in time of war, insurrection, invasion, public danger, or to aid the civil authorities on account of any breach of the peace, tumult, riot, resistance to process of the State, or imminent danger thereof, or for any other cause, the Articles of War governing the Army of the United States, as far as such regulations are consistent with this section and the regulations issued thereunder, shall be in force and regarded as a part of this section until said forces shall be relieved from such duty.

**WARNING FOR DUTY, HOW GIVEN.**

Sec. 78. Be it further enacted, etc., That officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order or reading the order to the person warned or by delivering a copy of such order to such person, or by leaving a copy of such order at the last known place of abode or business of such person with some one of suitable age or discretion, or by sending a copy of such order or a notice containing the substance thereof to such person by mail directed to him at his last known place of abode or business or to the post office nearest thereto. Such warning may be given by any officer or non-commissioned officer. The officer or non-commissioned officer giving such warning shall make a return thereof containing the name of the person warned, and the time, place and manner of warning. Such return shall be verified by oath, which may be administered by any commanding officer; such verified return shall be as good evidence in the trial of any person returned as a delinquent of the facts therein stated, and if such officer or non-commissioned officer has testified to the same before the military court on such trial. Every commanding officer shall make the like return, on honor, and with like effect, of every delinquency and neglect of duty of his officers and non-commissioned officers and also of every enlisted man who shall refuse or neglect to perform such military duty as may be required.

**PAY DURING ACTIVE SERVICE.**

Sec. 79. Be it further enacted, etc., That when the military forces of this State, or any part thereof, are called into active service of the State, officers shall during their terms of service receive the same pay and allowances as is now or may hereafter be established by law for the army and navy of the United States, except as otherwise provided in Section 80 of this Act, and enlisted men shall be paid for such time per day as follows: Chief musicians of cavalry, artillery, infantry and engineers, three dollars; first class sergeants of signal corps and hospital corps, two dollars and seventy-five cents; battalion sergeants, major of engineers, battalion quartermasters, sergeants of engineers, sergeant-majors of artillery, first sergeants of engineers, company quartermaster sergeants of engineers, sergeants of signal corps, regimental quarter-master sergeants regimental commissary sergeants and regimental sergeant majors, two dollars and fifty cents; first sergeants of infantry, cavalry and artillery, sergeants of hospital corps, drum majors, sergeant-majors of squalion and battalion color sergeants, chief trumpeters of cavalry and artillery, principal musicians of cavalry, artillery, infantry and engineers, two dollars and twenty-five cents; corporals of engineers and signal corps, cooks of engineers and signal corps, sergeants and cooks of infantry, cavalry and artillery and bands, mechanics of coast artillery, stable sergeants of field artillery, privates of hospital corps, company quarter-master sergeants of cavalry, artillery and infantry, two dollars; first class privates of engineers and signal corps, corporals of cavalry, artillery and infantry and bands, artificers of field artillery and infantry, farriers, blacksmiths, saddlers and waggoners of cavalry, one dollar and seventy five cents; privates of cavalry, artillery, infantry, signal corps and bands, second class privates of engineers, musicians of artillery, infantry and engineers, trumpeters of cavalry, one dollar and fifty cents. For subsistence, an allowance of seventy-five cents per day will be allowed.

**PAY OF OFFICERS ON COMMISSION BOARDS, ETC.**

Sec. 80. Be it further enacted, etc., That the pay of officers serving on all boards, commissions and courts ordered by proper authority in pursuant to any provision of this chapter shall be paid the sum of five dollars (\$5.00) for each day actually employed on such board or court or in traveling to and from the same, together with transportation and other necessary expenses, except that in no case shall the summary court officers be entitled to pay or expenses except when ordered to hold court at some other station other than that at which he is stationed.

**EXEMPTIONS FOR OFFICERS AND MEN.**

Sec. 81. Be it further enacted, etc., That all officers and enlisted men of the active militia of this State who comply with their military duties as prescribed by this act shall be entitled to exemption from the payment of any road or street tax, and from any road duty whatsoever under the laws of the State and exemption from jury duty or service of every character and description; and all officers who have served continuously for eight years, and all enlisted men who have served continuously to full enlistments in the active militia of the State and who have been retired or fully and honorably discharged, shall be and are hereby exempted from any and all road and street taxes and any and all road, street and jury duty, and the production of a copy of the order of retirement or the original or duplicate Discharge Certificate shall be legal evidence of and warrant for such exemption.

**WHAT NECESSARY TO OBTAIN EXEMPTION.**

Sec. 82. Be it further enacted, etc., That in order to entitle any troop, battery company, corps or band of the active militia of this State to exemption from the payment of road or street taxes, jury service or duty, and road duty as specified in Section 81 of this act, the commanding officer of such organization shall, between the first and thirty-first days of January of each year, file a membership roll of his command, certified to by him, one copy with the Clerk of the District Court of his Parish, and

one copy with the police jury of his parish, and the names appearing on such lists shall thereafter be exempt from jury service or duty of every character and description, from the performance of any road duty, and from the payment of any road or street tax in such parish for the current year. Clerks of the Police Jury shall furnish information of the persons so exempt to the proper road overseers and to all others concerned.

In order to entitle any general, field or staff officer of the active militia of this State to the exemptions as set forth in Section 81 of this act, such officer shall file certificates between the first and thirty-first days of January of each year, with the District Court and police jury of his parish, and on filing such certificates shall thereafter be exempt from jury service or duty of every character and description, from the performance of any road duty and from the payment of any road or street tax in such parish for the current year.

In order to entitle any non-commissioned staff officer, member of the engineer or hospital corps or other enlisted men of the active militia of this State, not belonging to a regular organization, to the exemption as set forth in Section 81 of this act, such non-commissioned officer or soldier shall prepare and file affidavits similar to the certificate provided in the preceding section for officers, with the assessor, district clerk of his parish; such affidavits shall be filed during the same period and in the same manner as set forth in said above section for officers, and on filing such affidavits, such non-commissioned officer or soldier shall be entitled to the same exemption in the same manner as provided for such officers.

#### PENSIONS.

Sec. 83. Be it further enacted, etc., That every member of the National Guard who shall be wounded or disabled while on duty in the service of the State, shall be taken care of and provided for at the expense of the State, and if permanently disabled shall receive the like pensions or reward that persons under similar circumstances in the military service of the United States receive from the United States; provided, that no pension shall be granted for any disability received while in the service of the United States, or while proceeding to or returning from such service. Before the name of any person is placed upon the pension roll under this section, proof shall be made, under such regulations as the Commander-in-Chief may from time to time prescribe, that the applicant is entitled to such pension.

#### POSSESSION OF ARMS BY UNAUTHORIZED PERSONS.

Sec. 84. Be it further enacted, etc., That whenever it shall come to the knowledge of the Governor, on the affidavit of a credible person, that persons having arms, equipment, or other military property issued by this State for the use of the military forces of this State, without authority of law, and that such persons fail or refuse to deliver up such property it shall be his duty forthwith to issue his warrant to the sheriff of the parish where such persons may be or resided, commanding such sheriff to seize and take into his possession such arms, equipment or other military property, and the same keep subject to the further order of the Governor.

Any sheriff receiving such a warrant as is specified shall proceed without delay to execute the same in the manner therein directed, and in executing such warrant he may summon to his aid the power of the parish and any command of the active militia of this State that may be convenient.

#### PARTICIPATION IN APPORTIONMENT OF FUNDS.

Sec. 85. Be it further enacted, etc., That no command of the Louisiana National Guard or Naval Militia may participate in the apportionments of the State funds for the maintenance of the militia unless said organization has been duly mustered and, if practicable, inspected at least once a year by a duly accredited officer who is not connected in any way with the organization, and who will be named in orders by the Adjutant General. The expenses and pay if any, for the above named inspectors, to be paid from the militia in the field fund.

**ASSEMBLING FOR DRILL.**

Sec. 86. (As amended in Sec. 23, 264, 1916, p. 549). Be it further enacted, etc., That each company, troop, battery and detachment shall assemble for drill and instruction, including indoor target practice, not less than forty-eight times each year, and shall, in addition, participate in encampments, manoeuvres or other exercises, including outdoor target practice at least fifteen days in training each year, unless excused by the Secretary of War. Credit for assembly for drill or indoor target practice shall not be given unless officers and men present for duty equal or exceed in number a minimum to be prescribed by the President, nor unless actual military duty and instruction participated in by each officer and man at each such assembly credited to him shall be of at least one and one half and the character of training shall be such as may be prescribed by the Secretary of War. In addition to such drill exercise and instruction the commanding officer of any organization may require the officers and enlisted men of his command to meet for drill or instruction at such times and places as he may appoint.

Sec. 87. Repealed by Sec. 25, Act 264, 1916, p. 549.

**STATE TO MAKE PROVISIONS FOR PAY, ETC.**

Sec. 88. Be it further enacted, etc., That the State shall make suitable provisions for the pay, transportation, subsistence and quarters for all troops of this State who may attend at any annual encampment or when called into active service of this State.

**AUTHORITY TO DRAW FROM U. S. ARMS, ETC.**

Sec. 89. Be it further enacted, etc., That the Governor in his official capacity is authorized to draw from the United States Government all arms, equipments, munitions or other military stores to which the State may, from time to time, be entitled for the use of the militia, and may execute such bonds in the name of the State of Louisiana as may be necessary or requisite to secure their issuance.

**DUTY OF ADJUTANT GENERAL.**

Sec. 90. Be it further enacted, etc., That the Adjutant General shall cause all arms, equipment, munitions or other military property belonging to or under the control of this State, to be stored at such points as he may deem most conducive to the interests of the State and the convenience of the militia.

Sec. 91. Repealed by Act 264, 1916, p. 549.

**FORCES OF OTHER STATES.**

Sec. 92. Be it further enacted, etc., That no armed military force from any other State, Territory, or district shall be permitted to enter this State without the permission of the Governor, unless such force is part of the United States Army.

**UNIFORMS.**

Sec. 93. Be it further enacted, etc., That the uniform for officers and enlisted men of the active militia of this State shall be the same as that prescribed for the United States Army, with such modifications as the Governor may make from time to time. All uniforms and other military property issued by this State shall be used for military purposes only, and when issued shall be receipted for, and kept and accounted for in such manner as the Adjutant General may prescribe.

**PURCHASES OF STORES, ETC., BY ADJUTANT GENERAL.**

Sec. 94. Be it further enacted, etc., That the Adjutant General may, after the appropriation is made for that purpose, purchase and keep ready for use, or issue to the military forces of this State, as the best interests of the service may require, such amount and kind of quartermaster's, ordnance, subsistence, medical, signal, engineer's and all other military stores and supplies as shall be necessary; he shall see that all military stores and supplies, both the property of the State and of the United

States, are properly cared for and kept in good order, ready for use, and all accounts which may accrue against this State under the provisions of this Section shall, if correct, be certified and approved by the Adjutant General and paid out of the State Treasury as other claims are paid. Any military stores belonging to this State which may become unserviceable, obsolete or unfit for further use may be disposed of in such manner as the Governor or Adjutant General may prescribe by regulations or order; and the Adjutant General is hereby authorized to sell or destroy, as he may see fit, for the best interests of the service, any unserviceable or obsolete or unsuitable military stores belonging to the State, the sums realized from the sale thereof to be turned into the State Treasury, to be credited to any fund appropriated for the use of the active militia of this State, as shall be determined at the time by the Governor or the Adjutant General; or he may, in his discretion, exchange such stores for such other military stores as the interest of the service may require, for the use of the active militia of this State.

**Sec. 95.** Repealed by Act 264, 1916, p. 549.

#### **MARKSMANSHIP—RIFLE PRACTICE.**

**Sec. 96.** Be it further enacted, etc., That, in order to encourage marksmanship, the Governor is authorized to offer annually a State decoration or prize to the members of the service who shall excel in rifle practice, all such prizes to be competed for under regulations prepared by the Inspector of Rifle Practice and submitted to the Adjutant General for his approval.

#### **ATTORNEY GENERAL IS LEGAL ADVISER.**

**Sec. 97.** Be it further enacted, etc., That the Attorney General of the State shall be the legal adviser of the Governor, the Adjutant General, the Quartermaster General and the active militia, and to him may be referred all contracts, agreements or other instruments to be drawn or executed in the course of business thereof.

#### **RULES AND ARTICLES—DEFINITIONS.**

**Sec. 98.** Be it further enacted, etc., That the military forces of this State shall be governed by the following rules and articles. The word officer as used therein shall be understood to designate commissioned officers; the word soldier shall be understood to include non-commissioned officers, musicians, artificers, privates and other enlisted men; the word company shall be understood to include troops, batteries, companies, signal corps, hospital corps, band and detachments, and the convictions mentioned therein shall be understood to be convictions by courts martial.

#### **ENLISTMENT IS VOLUNTARY—OATH.**

**Art. 1.** (As amended by Sec. 27, Act 264, 1916, p. 549). Enlistment in the active militia of this State shall be voluntary, and every person who enlists therein shall take and subscribe an oath or affirmation in the following words: "I do hereby acknowledge to have voluntarily enlisted this ..... day of ..... 19....., as a soldier in the National Guard of the United States and of the State of Louisiana for the period of three years in active service and three years in the reserve, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of Louisiana, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the United States and of the Governor of the State of Louisiana and of the officers appointed over me according to law and to rules and Articles of War, So Help Me, God."

#### **DISCHARGE.**

**Art. 2.** (As amended by Sec. 28, Act 264, 1916, p. 549). No enlisted man, duly sworn, shall be discharged from service without a discharge in writing approved by his commanding officer, and by the commanding

officer of the regiment, battalion or corps to which he belongs; and no discharge shall be given to any enlisted man before his term of service has expired, except in compliance with such regulations as the President may prescribe in accordance with laws of the United States, or by order of a court martial.

**DESERTERS.**

Art. 3. Every deserter from the military service of the United States or from the militia of this State, when called forth by the Governor, or, in time of invasion, insurrection or rebellion, by the President of the United States, shall be deemed to have voluntarily relinquished his right to vote at all elections and he shall not be entitled to participate in elections in this State until he shall have returned the command from which he deserted, made good the time lost in desertion, and served out his original enlistment. Nor shall any man dishonorably discharged from the National Guard of Louisiana or from the United States Army, be permitted to exercise the right of suffrage until reinstated.

**CAUSES FOR DROPPING MEMBER FROM ROLLS.**

Art. 4. (As amended by Sec. 29, Act 264, 1916, p. 540). An enlisted man who shall remove his residence to such distance from the armory of his organization as to render it impracticable for him to perform his duties properly, or who, after due diligence, cannot be found or who shall be convicted of a felony, may be dropped from the rolls of his company, battery, troop or signal corps by order of the commanding officer of the brigade, battalion, or squadron not part of a regiment. An enlisted man dropped by reason of removal may be taken up, at any time within three years after such removal, in his former or any other organization, in the latter case he must first obtain the written permission of his former commanding officer approved by the officer upon whose order he was dropped. An enlisted man dropped for removal may be taken up at any time after three years after such removal, upon his application, approved by the officer upon whose order he was dropped. The taking up shall be done under the order of any officer who is authorized to order the dropping of men and men thus taken up shall receive credit for the time served before having been dropped.

**PENALTY FOR MAKING FALSE RETURNS.**

Art. 5. Every officer who knowingly makes a false return to the Adjutant General's department, or to any of his superior officers authorized to call for such returns, of the state of the regiment or company under his command; or of any arms, ammunition, clothing or other stores thereto belonging, shall be punished as a court martial may direct.

**PENALTY FOR MAKING FALSE CERTIFICATES.**

Art. 6. Every officer who signs a false certificate relating to the absence or pay of any officer or soldier shall be dismissed from the service or suffer such other punishment as a court martial may direct.

**PENALTY FOR FALSE MUSTER.**

Art. 7. Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall upon proof thereof, before a court martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment, civil or military, in the service of the State of Louisiana.

**PENALTY FOR DAMAGING SUPPLIES.**

Art. 8. Any officer who wilfully or through neglect suffers to be lost, damaged or spoiled, any military stores or supplies belonging to the State or to the United States, which have been received for use of the military forces of this State, shall make good the loss or damage and suffer such punishment as a court martial may direct.

**PENALTY FOR DAMAGING MILITARY STORES.**

Art. 9. Any soldier who sells or through neglect loses or spoils the arms, uniforms, equipments, accoutrements or any other military stores or supplies issued to him for his use or in his charge shall make good the loss or damage and suffer such punishment as a court martial may direct.

**PENALTY FOR STRIKING SUPERIOR OFFICER.**

Art. 10. Any officer or soldier, who, on any pretense whatsoever, strikes his superior officer, or offers any violence to him, being engaged in the reasonable execution of his official duties, or if any officer or soldier disobeys any lawful command of his superior officer, he shall suffer such punishment as a court martial may direct.

**PENALTY FOR MUTINY.**

Art. 11. Any officer or soldier who begins, excites, causes or joins in any mutiny or sedition in any regiment company quarters or guard shall suffer such punishment as a court martial may direct.

**PENALTY FOR FAILING TO SUPPRESS MUTINY.**

Art. 12. Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition, does not, without delay give information thereof to his commanding officers, shall suffer such punishment as a court martial may direct.

**POWER TO QUELL QUARRELS, ETC.**

Art. 13. All officers and non-commissioned officers, of what condition soever, have power to part or quell all quarrels, frays and disorders, whenever among persons belonging to his own or to another regiment or company, and to order officers into arrest, and non-commissioned officers and soldiers into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever being so ordered refuses to obey such officers or non-commissioned officer, or draws a weapon upon him, shall be punished as a court martial may direct.

**ABSENCE WITHOUT LEAVE.**

Art. 14. Any soldier who absents himself from his company or guard, without leave from his commanding officer, shall be punished as a court martial may direct.

**FAILURE TO REPORT.**

Art. 15. Any officer or soldier who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise or other rendezvous appointed by his commanding officer, or goes from the same without leave from his commanding officer before he is dismissed or relieved, shall be punished as a court martial may direct.

**DRUNKENNESS.**

Art. 16. Any officer who is found drunk on his guard, party or other duty shall be dismissed from the service. Any soldier who so offends shall suffer such punishment as a court martial may direct.

**SENTINEL SLEEPING AT POST.**

Art. 17. Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court martial may direct.

**QUITTING GUARD.**

Art. 18. Any officer or soldier who quits his guard, without leave from his superior officer, except in case of urgent necessity, shall be punished as a court martial may direct.

**FALSE ALARMS.**

Art. 19. Any officer who, by means whatsoever, occasions false alarm in camp, command or quarters, shall suffer such punishment as a court martial may direct.

**COWARDICE, ETC.**

Art. 20. Any officer or soldier who misbehaves himself before the enemy, runs away or shamefully abandons any place, post guard, which he is commanded to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage shall suffer such punishment as a court martial may direct.

**DESERTION.**

Art. 21. Any officer or soldier who, having been duly enlisted or drafted in the military service of the State, deserts the same, shall suffer such punishment as a court martial may direct.

**DESERTERS.**

Art. 22. Every soldier who deserts the military service of this State shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall be tried by a court martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried.

**RESIGNATION OF OFFICERS.**

Art. 23. Any officer who, having tendered his resignation, quits his post or proper duties without leave and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of the same, shall be deemed and punished as a deserter.

**NO REENLISTMENT WITHOUT DISCHARGE.**

Art. 24. No soldier shall enlist himself in any other regiment or company, without a regular discharge from the regiment or company in which he last served, on a penalty of being reputed a deserter and suffering accordingly. And in case any officer shall knowingly receive and entertain such soldier, or shall not, after his being discovered to be a deserter, immediately give notice thereof to the command in which he last served, the said officer shall, by court martial, be dismissed.

**CRIMES PUNISHABLE BY COURT MARTIAL.**

Art. 25. In time of war, insurrection or rebellion, larceny, robbery, burglary, arson, mayhem, manslaughter, murder, assault and battery with intent to kill, wounding by shooting or stabbing with an intent to commit murder, rape or assault and battery with an intent to commit rape, shall be punishable by the sentence of a general court martial when committed by persons in the military service of this State, and punishment in every case shall not be less than the punishment provided for like offenses by the Penal Code of this State.

**CAPITAL CRIMES.**

Art. 26. When any officer or soldier is accused of a capital crime, or any offense against the person or property of any citizen of this State, which is punishable by the laws of this State, the commanding officer and the officers of the regiment or company to which the person so accused belongs are required, except in time of war, upon application duly made by or in behalf of the party injured, to use their utmost endeavor to deliver him over to the civil authority and to aid the officers of justice in apprehending and securing him in order to bring him to trial. If, upon application, any officer refuses or wilfully neglects, except in time of war, to deliver over such accused person to the civil authority or to aid the officers of justice in apprehending him, he shall be punished as a court martial may direct.

**FRAUDULENT CLAIMS AGAINST STATE, ETC.**

Art. 27. Any person in the military service of this State who makes or causes to be made any claim against this State or the United States, or any officer thereof, knowing such claims to be false or fraudulent, or who, having charge, possession, custody, or control of any money or other property of this State or the United States, furnished or intended for the military service of this State, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof, less than that for which he receives a certificate or receipts; or who steals, embezzles, knowingly or wilfully misappropriates, applies to his own use, or benefit or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence stores, money or other property of this State or the United States, furnished or intended for the military service of this State; or who, knowingly purchases or receives in pledge for any obligation or indebtedness, from any soldier, officer, or other person who is part of or employed in said forces or service, any ordnance, arms, equipments, ammunitions, clothing, subsistence stores, or other property of this State or of the United States, such soldier or officer, or other person not having lawful right to sell or pledge the same, shall, on conviction thereof, be punished by fine or imprisonment or by such other punishment as a court martial may adjudge; or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid, while in the military service of this State receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court martial, in the same manner and to the same extent as if he had not received such discharge or been dismissed.

**DISOBEDIENCE OF ORDERS, ETC.**

Art. 28. All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good orders and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or a regimental, or a summary court martial, according to the nature and degree of the offense, and punished at the discretion of such court.

**MEASURE OF PUNISHMENT.**

Art. 29. (As amended by Sec. 30, Act 264, 1916, p. 550). Whenever by any of the articles of this section for the government of the military forces of this State, the punishment, on conviction of any military offense, is left to the discretion of the court martial, the punishment therefor shall not be in excess of a limit which may be fixed by the laws of the United States, orders or regulations made in compliance therewith.

**OFFICERS AND SOLDIERS GOVERNED BY ARTICLES.**

Art. 30. The officers and soldiers of any troop, whether active or reserve militia of this State or otherwise, appointed, enlisted, mustered or drafted into the military forces of this State, shall at all times, and in all places be governed by these articles, and shall be subject to be tried by court martial.

**CAMP RETAINERS.**

Art. 31. All retainers of the camp and all persons serving with the military forces of this State in the field though not enlisted soldiers, shall be subject to these rules and articles in the same manner as enlisted men.

**OFFICERS CHARGED WITH CRIME.**

Art. 32. Officers charged with crime shall be arrested and confined in their quarters or tents, or other place, and deprived of their side arms by the commanding officer. And any officer who leaves his confinement before he is set at liberty by his commanding officer shall be dismissed from the service, and suffer such other punishment as a court martial may direct.

**REFUSAL OF PROVOST MARSHAL TO KEEP PRISONERS.**

Art. 33. Any provost marshal or any officer commanding a guard who

shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the military forces of this State, shall suffer such punishment as a court martial may direct; provided, the officer committing shall, at the same time, deliver a statement in writing, signed by himself, of the crime charged against the prisoner.

**REPORTS TO COMMANDING OFFICER, NAME, ETC., OF PRISONER.**

Art. 34. Every officer to whose charge a prisoner is committed shall, within twenty-four hours after such commitment, or so soon as he is relieved from his guard, report in writing, to the commanding officer, the name of such prisoner, the crime charged against him, and the name of the officer committing him; and if he fails to make such report he shall be punished as a court martial may direct.

**RELEASE OF PRISONER.**

Art. 35. Any officer who presumes, without proper authority, to release a prisoner committed to his charge or suffers any prisoners so committed to escape, shall be punished as a court martial may direct.

**LIMIT OF ARREST.**

Art. 36. No officer or soldier put in arrest shall be continued in confinement more than five days, or until such time as a court martial can be assembled.

**ARREST OF OFFICERS, CHARGES, ETC.**

Art. 37. When an officer is put in arrest for the purpose of trial, except at remote stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within five days after his arrest, and that he is brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said ten days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease. But officers released from arrest under the provisions of this article may be tried, whenever the exigencies of the service shall permit, within twelve months after such release from arrest.

**KINDS OF COURT MARTIAL.**

Art. 38. (As amended by Sec. 31, Act 264, 1916, p. 550). Except the National Guard organization in the service of the United States, courts-martial in the National Guard shall be of three kinds, namely, general courts-martial, special courts-martial and summary courts-martial. They shall be constituted like and have cognizance of the same subjects, and possess like powers except as to punishment, as similar courts provided for the United States Army, and shall follow the forms and procedure prescribed for courts-martial of the United States Army.

But when any such general or other officer is the accused or prosecutor of any officer under his command, the court shall be appointed by the Governor; and its proceedings and sentence shall be sent direct to the Adjutant General, by whom they shall be laid before the Governor for his approval or orders in the case.

**JUDGE ADVOCATE.**

Art. 39. Officers who may appoint a court martial shall be competent to appoint a judge advocate for the same.

**GENERAL COURTS MARTIAL.**

Art. 40. (As amended by Sec. 32, Act 264, 1916, p. 551). General courts-martial of the National Guard not in the service of the United States, may be convened by the President of the United States or the Governor of Louisiana, and such courts shall have power to impose fines not exceeding two hundred dollars; to sentence to forfeiture of pay and allowances, reprimand, the dismissal or dishonorable discharge, reduction of non-commissioned officers to ranks; or any two or more of such punishments may be combined.

**ASSEMBLING THE COURT.**

Art. 41. When the requisite number of officers to form a general court martial is not present in any command or detachment, but the commanding officer shall, in cases which require the cognizance of such court, report to the Governor, who shall thereupon order a court to be assembled at the nearest and most convenient place at or near which there may be such a requisite number of officers, and shall order the party accused, with the necessary witnesses, to be transported to the place where the said court martial shall be assembled.

**SPECIAL COURTS MARTIAL.**

Art. 42. (As amended by Sec. 33, Act 264, 1916, p. 551). Special courts-martial of the National Guard, not in the service of the United States, shall have power to try any person subject to military law except commissioned officers, for any crime or offense punishable by the military laws of the United States, or of this State, and such special courts-martial shall have the same powers of punishment as do general courts-martial except that the fines imposed shall not exceed one hundred dollars.

**SUMMARY COURTS MARTIAL—POWERS.**

Art. 43. (As amended by Sec. 34, Act 264, 1916, p. 551). (a) Summary courts-martial of the National Guard not in the service of the United States, to consist of one officer, shall have power to administer oaths and to try enlisted men for breaches of discipline and violations of the laws governing such organization, and they may impose fines not exceeding twenty-five dollars, for any single offense, sentence non-commissioned officers to reduction to ranks, sentence to forfeiture of pay and allowances, and impose such other punishments that may be prescribed by the President of the United States or the Governor of Louisiana in accordance with laws. (b) All courts-martial of the National Guard not in the service of the United States, including the summary courts-martials, shall have power to sentence to confinement in lieu of fines authorized, such sentences not to exceed one day for each dollar or fine. (c) No sentence of dismissal or of dishonorable discharge from the service imposed by a court-martial of the National Guards not in the service of the United States shall be executed until approved by the Governor. (d) Judge-advocates of courts-martial of National Guard not in the service of the United States shall have powers and duties similar to those of judge-advocates of courts-martial of the Army of the United States.

**SUMMARY COURT RECORD.**

Art. 44. There shall be a summary court record kept at the headquarters of the proper command in the field, each regiment or corps, detached battalion or company, and each company at its home station for which summary courts martial have been appointed, in which shall be entered a record of all cases heard and determined and the action had thereon. And the commanding officer of each camp or other place, regiment or corps, detached battalion or company, and each company at its home station, for which summary courts martial have been appointed, shall, on the last day of every month and oftener if required, make a report to the Adjutant General of the number of cases determined by summary courts during the period, setting forth the offenses committed and the penalties awarded.

**ADMINISTRATION OF OATHS.**

Art. 45. The judge advocate of such courts-martial and the trial officers of summary courts are hereby authorized to administer oaths for the purpose of the administration of military justice and for other military purposes.

**DEPOSITION OF WITNESSES.**

Art. 46. The depositions of witnesses, for the accused, residing beyond the limits of this State or the parish in which any military court may be

ordered to sit may be taken and read in evidence as provided by the laws of this State in civil cases.

**STATUTE OF LIMITATIONS.**

Art. 47. No person shall be liable to be tried or punished by a general court-martial for any offense (except for the desertion in the face of an enemy) committed more than two years before the arraignment of such person for such offense, unless he shall meanwhile have absented himself from this State, in which case the time of his absence shall be excluded in computing the period of the limitation; provided that said limitation shall not begin until the end of the term for which said person was mustered into the service.

**CONFIRMATION OF SENTENCE BY GOVERNOR.**

Art. 48. No sentence of a court martial respecting a general officer, and no sentence of a court-marital directing the dismissal of any officer, shall be carried into execution until it shall have been confirmed by the Governor.

**CONFIRMATION OF SENTENCE BY COMMANDING OFFICER.**

Art. 49. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer ordering the court or by the officer commanding for the time being.

**WHEN GOVERNOR CANNOT BE REACHED.**

Art. 50. (As amended by Sec. 35, Act 264, 1916, p. 552). All sentences of a court-martial may be confirmed and carried into execution by the officer ordering the court, or by the officer commanding for the time being, where confirmation by the Governor is not required by these articles, or other laws.

**RIGHT TO PARDON.**

Art. 51. Any officer who is authorized to confirm and carry into execution the sentence of a court-martial shall have power to pardon or mitigate any punishment adjudged by it, except the punishment of dismissal of an officer; and the Governor shall have power to pardon or mitigate any punishment adjudged by any court-martial.

**RECORD TO ADJUTANT GENERAL.**

Art. 52. Every judge advocate, or person acting as such at any general or regimental court-martial, shall, with such expedition as the opportunity of time and distance of place may admit, forward the original proceedings and sentence of such court to the Adjutant General in whose office they shall be carefully preserved.

**ACCUSED ENTITLED TO COPY.**

Art. 53. Every party tried by a general or regimental court-martial shall, upon demand thereof, made by himself, or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

**COURTS OF INQUIRY.**

Art. 54. A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against, any officer or soldier may be ordered by the Governor or by the commanding officer; but such courts of inquiry shall never be ordered by any commanding officer except upon demand by the officer or soldier whose conduct is to be inquired into.

**COMPOSITION OF COURT.**

Art. 55. A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder to reduce the proceedings and evidence to writing.

**POWER OF COURT.**

Art. 56. A court of inquiry and the recorder thereof shall have the

same power to summons and examine witnesses as is given to courts-martial, and the judge advocates thereof. Such witnesses shall take the same oath which is taken by witnesses before courts martial, and the party accused shall be permitted to examine and cross examine them so as to fully investigate the circumstances in question.

**COURT NOT TO GIVE OPINION.**

Art. 57. A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

**AUTHENTICATION OF PROCEEDINGS.**

Art. 58. The proceedings of a court of inquiry must be authenticated by the signatures of the recorder and the president thereof, and delivered to the commanding officer.

**PROCEEDINGS AS EVIDENCE.**

Art. 59. The proceedings of a court of inquiry may be admitted as evidence by a court martial in cases not extending to the dismissal of an officer; provided, that the circumstances are such that oral testimony can not be obtained.

**ANNUAL READING OF ARTICLES.**

Art. 60. The foregoing articles shall be read once in every twelve months to every company in the military service of this State, and shall be duly observed and obeyed by all officers and soldiers in said service.

**RULES OF EVIDENCE.**

Sec. 99. Be it further enacted, etc., That the rules of evidence in all courts martial shall follow in general, so far as apposite, the common law rules of evidence as observed by the courts of this State in criminal cases, but a certain latitude in the introduction of evidence and the examination of witnesses by an avoidance of restrictive rules is permissible when it is in the interest of the administration of military justice.

After military courts and courts of inquiry are appointed and shall have assembled the organization rules and procedure shall be the same as laid down by the army regulations and the manual of Courts-Martial of the United States Army.

**RIGHTS OF ACCUSED.**

Sec. 100. Be it further enacted, etc., That in all trials before courts martial the accused shall have the right to demand the nature and cause of the accusation against him, and to be presented with a copy of the charge. He shall have the right of being heard by himself or counsel or both; shall be confronted with the witnesses against him, and he shall have compulsory process for obtaining witnesses in his favor.

**COUNSEL OF DEFENSE.**

Sec. 101. Be it further enacted, etc., That the officer ordering a general or regimental court martial will, at the request of any prisoner who is to be arraigned, detail as counsel for his defense a suitable officer, one not acting as a summary court; provided, such request is made within reasonable time before trial. If there be no such officer available, the fact will be reported to the Adjutant General for his action. An officer so detailed should perform such duties as usually devolve upon counsel for defendant before civil courts in criminal cases.

**APPOINTMENT OF REPORTER.**

Sec. 102. Be it further enacted, etc., That the judge advocate of a military court shall have power to appoint a reporter, who shall record the proceedings of the testimony taken before such court, and may set down the same, in the first instance in shorthand. The reporter shall, before entering upon his duty, be sworn or affirmed, faithfully to perform the same.

**COMPELLING WITNESSES TO APPEAR.**

Sec. 103. Be it further enacted, etc., That the president or the judge advocate of every general or regimental court-martial shall have power to issue like process to compel witnesses to appear and testify, which courts of criminal jurisdiction within this State may lawfully issue, and such process shall be issued in the same style and manner and executed by the officers as when issued by the court.

**AUTHORITY TO ISSUE PROCESS.**

Sec. 104. Be it further enacted, etc., That the president of any court martial and any summary court officer shall have authority to issue under his hand, in the name of "The State of Louisiana", directed to any sheriff or constable, whose duty it shall be to serve or execute the same in the same manner in which like process is served or executed when issued by a magistrate, all necessary process, subpoenas, attachments, warrants of arrest and warrants of commitment.

**REFUSAL TO APPEAR AS WITNESS.**

Sec. 105. Be it further enacted, etc., That every person who being duly subpoenaed to appear as a witness before a regimental or general court-martial, who wilfully neglects or refuses to appear, or refuses to qualify as a witness or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be guilty of a misdemeanor and prosecuted in the proper District Court and punished by a fine not exceeding one hundred dollars; provided, that such witness may plead as a defense that he was not tendered or paid one day's fee and mileage for the journey to and from the place of trial as provided by this act, such amounts to be paid by the Adjutant General's department out of any appropriation of funds available for that purpose; provided no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him.

**TRANSPORTATION OF WITNESSES, ETC.**

Sec. 106. Be it further enacted, etc., That persons in the employ of this State, but not belonging to the military forces thereof, when traveling upon summons as witnesses before military courts, are entitled to transportation in kind from their place of residence to the place where the court is in session and return. If no transportation be furnished, they are entitled to reimbursement of the cost of travel actually performed by the shortest usually traveled route. They are also entitled to reimbursement of the actual costs of meals and room at a rate not to exceed three dollars per day for each day actually and unavoidably consumed in travel or in attendance upon the court under the order or summons. No allowance will be made to them when attendance upon court does not require them to leave their place of residence.

**COMPENSATION OF WITNESSES.**

Sec. 107. Be it further enacted, etc., That a person not in the employ of this State and not belonging to the active military forces thereof, who has been duly summoned to appear as a witness before a military court, will receive two dollars per day for each day actually in attendance upon the court, and six cents a mile for going from place of residence to the place of trial or hearing, and six cents a mile for returning. Civilian witnesses will be paid by the Adjutant General's Department.

**PAYMENT OF CHARGES.**

Sec. 108. Be it further enacted, etc., That the charges for return journeys of witnesses will be made upon the basis of the actual charges allowed for travel to the court, and the entire account thus completed will be paid upon discharge from attendance without waiting for the completion of return travel.

**ATTACHMENT OF WITNESSES.**

Sec. 109. Be it further enacted, etc., That in all cases where a wit-

ness has been subpoenaed and fails to attend, attachment shall issue and he shall be liable for the costs of such attachment, unless good cause be shown to the court why he failed to obey the subpoena, which costs may be recovered by civil suit in any court having jurisdiction of the amount involved.

**FEES.**

Sec. 110. Be it further enacted, etc., That no fees shall be allowed to a person as witness fees unless such person has been subpoenaed, attached and recognized as a witness in the case.

**ARREST OF ACCUSED.**

Sec. 111. Be it further enacted, etc., That when charges against any person in the military service of this State come before the Governor, or any officer authorized to order a court martial for the trial of such person, and the Governor or such officer believes that such charges can be sustained, and has reason to believe that the person so charged will not appear for trial, or intends to flee from justice, the Governor or such officer may issue a warrant of arrest to the sheriff or any constable of the parish in which the person so charged resides, or wherein he is supposed to be, commanding such sheriff or constable to take the body of the person so charged and confine him in jail until such time as his case may finally be disposed of; and it shall be the duty of the sheriff or constable, on the order of the Governor or officer ordering the court, to bring the person so charged before the court martial for trial, or to turn him over to whoever the order may direct; it shall be the duty of the Governor or the officer issuing the warrant of arrest to endorse thereon the amount of bail to be required, and it shall be a violation of duty on the part of the sheriff or constable to permit a person so committed to remain out of jail, except that he may, when such person desires it permit him to give bail in the sum indorsed on the warrant of arrest, conditioned for his reappearance from time to time, before such court martial as he may be ordered for trial, and until his case is finally disposed of, or until such time as he may surrender to the sheriff or constable as directed by the reviewing authority of the court martial before which he may be ordered for trial.

**SUIT TO RECOVER BAIL.**

Sec. 112. Be it further enacted, etc., That upon the failure of any person who has been admitted to bail conditioned for his appearance for trial before a court martial, or upon the failure of any person admitted to bail to appear as a witness in any case before a court martial, as conditioned in the bail bond of any such person, the court martial shall certify the fact of such failure to appear to the officer ordering the court martial, or the officer commanding for the time being, as the case may be, and it shall be the duty of such officer to cause the judge advocate or District Attorney of that jurisdiction to file suit in any court having jurisdiction of the amount involved.

**RULES WHICH GOVERN GIVING BAIL, ETC.**

Sec. 113. Be it further enacted, etc., That the rules laid down in the Code of Criminal Procedure of this State relating to the giving of bail, the amount of bail, the number of sureties, the persons who may be sureties, the property exempt from liability, the responsibility of parties to the same and all other rules of a federal nature not inconsistent with this act, are applicable to bail taken as provided by this act.

**WARRANTS OF ARREST.**

Sec. 114. Be it further enacted, etc., That a warrant of arrest issued by the Governor or other officer authorized to order a general court-martial and all subpoenas and other process issued by general courts martial shall extend to every part of the State, but warrants of arrest issued by an officer other than those named above, and all subpoenas and other process issued by other military courts can not be executed in any other parish than the one in which they were issued, except they be endorsed

by the Governor or an officer authorized to order a general court martial, in which case they can be executed anywhere in the State. The endorsement may be, "Let this process be executed in any parish of the State of Louisiana." The endorsement shall be dated and signed officially by the Governor or officer making it.

**JUDGMENT COSTS.**

Sec. 115. Be it further enacted, etc., That the judgment of every court martial shall direct that all costs incurred in any trial shall be paid by the defendant, and it shall be the duty of the officer ordering the court or the officer commanding for the time being, as the case may be, to enforce the collection thereof in the manner prescribed by this act; and when the defendant is imprisoned for costs as hereafter provided by this act, the Adjutant General shall pay said costs out of any funds which may be available.

**FEES OF SHERIFFS, ETC.**

Sec. 116. Be it further enacted, etc., That upon conviction of any person by a court martial the costs accruing for witnesses fees and the fees for sheriffs or constables for executing the process, subpoenas, writs of attachment, warrants of arrest or warrants of commitment, or any other authorized writ, and of the stenographer for taking and reducing the evidence to writing, shall be taxed against the defendant; and any sheriff or constable executing any process, subpoena, writ of attachment, warrant of arrest, warrant of commitment, or any other authorized writs, and the stenographer taking and reducing the evidence to writing, shall be allowed the same fees as provided by the laws of this State.

**EXECUTION OF SENTENCE.**

Sec. 117. Be it further enacted, etc., That when the sentence of a court martial adjudges confinement, and the reviewing authority has approved the same, in whole or in part, and such sentence as approved exceeds two years confinement, the reviewing authority or the commanding officer for the time being, as the case may be, shall issue a warrant of commitment to the sheriff of the parish in which such court-martial was held, directing such sheriff to take the body of the person so sentenced and confine him in the parish jail of such parish until a duly accredited agent of the State penitentiary shall take charge of such person for confinement in the State penitentiary; and it shall be the duty of such revoking authority or the commanding officer for the time being, as the case may be, to certify a copy of the proceedings as approved, of the court martial in the case of such person to be confined, to the superintendent of the State Penitentiary, which shall be sufficient authority for, and it shall be the duty of such superintendent to send for and confine such person in the State Penitentiary for the period named in the proceedings of the court martial as approved, or until he may be directed to release him by proper authority; and it shall be the duty of the State Penitentiary Board to make such provisions as may be necessary for receiving from the sheriff as aforesaid and confining such person in such manner as persons are received and confined in the State Penitentiary on sentence of district courts in this State.

**SAME SUBJECT.**

Sec. 118. Be it further enacted, etc., That when the sentence of a court martial adjudges confinement, and the reviewing authority has approved same, in whole or in part, and such sentence as approved does not exceed two years confinement, the reviewing authority or the commanding officer for the time being, as the case may be, shall issue a warrant of commitment to the sheriff of the parish in which such court martial was held, directing such sheriff to take the body of the person so sentenced and confine him in the parish jail of such parish for the period named in such sentence as approved, or until he may be directed to release him by proper authority, and such confinement shall be carried out as prescribed

for confinement in the parish jail by the law of this State for criminal offenses.

**FAILURE TO PAY FINE AND COSTS.**

Sec. 119. Be it further enacted, etc., That when the sentence of a court martial adjudges a fine and costs against any person, and such fine and cost has not been fully paid within ten days after the confirmation thereof, the Governor or officer ordering the court, or the officer commanding for the time being, as the case may be, shall issue a warrant of commitment directed to the sheriff of the parish in which the court martial was held, directing him to take the body of the person so convicted and confine him in the parish jail; and it shall be the duty of the sheriff to take the body of the person convicted and confine him in the parish jail for one day for any fine not exceeding one dollar, and one additional day for every dollar above the sum, and one additional day for each dollar of cost.

**PAYMENT OF FINES, ETC.**

Sec. 120. Be it further enacted, etc., That all fines and forfeitures imposed by general or regimental court-martial shall be paid to the officer ordering such courts, or to the officer commanding for the time being, and by the said officer within five days from the receipt thereof paid to the Adjutant General, who shall disburse the same as he may see fit for military purposes.

**SAME SUBJECT.**

Sec. 121. Be it further enacted, etc., That all fines and forfeitures imposed by summary courts martial shall be paid to the officer ordering the court, or the officer commanding for the time being, and by such officer, within five days from the receipt thereof, placed to the credit of the company fund of the company of which the person fined was a member when the fine was imposed.

**EXECUTING PROCESS, ETC.**

Sec. 122. Be it further enacted, etc., That when any lawful process, issued by the proper officer of any court martial, comes to the hands of any sheriff or constable, he shall perform the usual duties of such officer and perform all acts and duties by this act imposed or authorized to be performed by any sheriff or constable.

**FAILURE TO EXECUTE PROCESS.**

Sec. 123. Be it further enacted, etc., That any sheriff or constable who refuses or neglects to perform any duty imposed upon him by this act, or to execute any lawful process which shall have been issued by the Governor or proper officer of a court martial shall, upon conviction thereof, in the district court, be deemed guilty of a misdemeanor, and shall be fined not more than five hundred dollars, and may, in the discretion of the court, be imprisoned in the parish jail not exceeding one year.

**REFUSAL OF DISTRICT ATTORNEY TO PERFORM DUTY.**

Sec. 124. Be it further enacted, etc., That any District Attorney who refuses to perform any duty imposed upon him by this act, shall upon conviction thereof, in the district court, be deemed guilty of a misdemeanor, and shall be fined not more than five hundred dollars, and may, in the discretion of the court, be imprisoned in the Parish jail not exceeding one year.

**FRAUDULENTLY MARKING "EXEMPT."**

Sec. 125. Be it further enacted, etc., That any Clerk of Court who marks "Exempt" any person enrolled as liable to military duty, whom he knows not to be exempt, shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than five hundred dollars, and may, in the discretion of the court, be imprisoned in the parish jail not exceeding one year.

**JURISDICTION OF COURTS.**

Sec. 126. Be it further enacted, etc., That the jurisdiction of the courts and boards established by this act shall be presumed, and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

**IMMUNITY OF MEMBERS OF COURT MARTIAL.**

Sec. 127. Be it further enacted, etc., That no action or proceeding shall be prosecuted or maintained against a member of the military forces of this State or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence, or the imposition or collection of any fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court.

**REMOVAL OF VENUE.**

Sec. 128. Be it further enacted, etc., That any officer or member of the military forces of this State, who is indicted or sued for any injury to person or property done while performing or endeavoring to perform any duty required of him by this act, shall have the right, and it is hereby made the duty of the court in which such indictment or suit is pending, upon the application of the person so indicted or sued, to remove the venue of such cause to some court of competent jurisdiction in another parish not subject to the same or some other disqualification; provided such application is supported by the affidavit of two credible persons to the effect that they have good reason to believe that the defendant can not have a fair and impartial trial before such court.

**NAVAL MILITIA.**

Sec. 129. Be it further enacted, etc., That the organizations forming the Naval Militia of this date, such others as may be organized hereafter, and such persons as may be enlisted or as may be appointed or commissioned therein, shall constitute the Naval Militia of this State.

**REORGANIZATION BY COMMANDER-IN-CHIEF.**

Sec. 130. Be it further enacted, etc., That the commander-in-chief may organize forces prescribed in the preceding section as he may deem proper; and when in his judgment the efficiency of the naval militia will be increased thereby, he may alter, re-organize, or disband any or all of the organizations therein; and he shall have the power at any time to change the organization of the Naval Militia so as to conform to any organization, system of drill or instruction which may be adopted for the navy of the United States, and to increase and decrease for that purpose the number of officers, warrant officers, chief petty officers, petty officers and enlisted men, and to change their grades, titles and designations.

The system of administration, drill and instruction of the naval militia shall conform, as nearly as practicable, to that of the Navy of the United States; and the discipline and government thereof, when not otherwise prescribed, shall be according to the laws and regulations now or hereafter governing the National Guard. No part of the Naval Militia shall be attached to any organization of the National Guard, except when especially ordered by the Governor, in which case the senior officer present shall command the whole.

**RELATIVE RANK NATIONAL GUARD AND NAVAL MILITIA.**

Sec. 131. Be it further enacted, etc., That the relative rank between officers of the National Guard organizations and of the Naval Militia shall be the same as that now or hereafter existing between officers of the army and navy of the United States; and the relative rank of petty officers in the Naval Militia and non-commissioned officers, in the National Guard organizations will be as prescribed by the Governor; seamen, shall correspond to privates of infantry.

**PAY OF OFFICERS, ETC.**

**Sec. 132.** Be it further enacted, etc., That the pay of officers and petty officers of the Naval Militia shall be the same as that of officers and non-commissioned officers of the same relative rank in the National Guard; and seamen shall receive the pay of privates of infantry.

**RANK OF COMMISSIONED OFFICERS IN THE NAVAL MILITIA.**

**Sec. 133.** Be it further enacted, etc., That commissioned officers of the Naval Militia shall have the same authority, rights, privileges and qualifications, grade for grade, as commissioned officers of the National Guard, and if not otherwise prescribed, shall be elected or appointed in the same manner; but the board of examination, in the case of election or appointment of an officer of the Naval Militia, shall consist of officers of the Naval Militia, but whenever the Governor shall have the authority to appoint commissioned officers of the National Guard he shall have the power to appoint commissioned officers of the Naval Militia in like manner.

**REPEALING CLAUSE.**

**Sec. 134.** Be it further enacted, etc., That all laws and parts of laws in conflict with the provisions of this act, especially Act No. 181 of the General Assembly of Louisiana, approved July 6, 1904, and all acts amendatory thereof, be and the same are hereby repealed.

**Note.** Applicant for writ of Habeas Corpus was condemned to pay a fine of two dollars and in default of payment to be imprisoned for two days in the parish jail under Section 119. Held that the court was without jurisdiction and the order heretofore issued was recalled. State vs. Stettson, 133 L. 601. Enlistment in the active militia of the State—save in times of war or public danger or disturbance—is voluntary, and constitutes a contract. The State has no power, by repealing the law under which the contract was made, and substituting another law, to impose upon the other party more onerous conditions and obligations, without his consent. The original act was the measure of the rights and obligations of the parties. Power of State to establish militia—courts martial, etc. State ex rel Lannig vs. Long 138 L. 1. The criminal District Court for the parish of Orleans has plenary power to issue the writ of Habeas Corpus." The authority is not restricted to cases of which it has appellate jurisdiction. State ex rel Fleddermann vs. Long, 138 L. 8.

The question whether a proclamation of martial law, within the limits of a certain parish, ipso facto divests the functions of a district judge, becomes a moot question where the Governor and ex officio commander in chief of the State Troops, formally requests such judge to hold court and discharge the duties of his office. Barataria Land Co. vs. Louisiana Meadows Co. 168 L. 428.

## **ADDITIONAL MILITARY FORCES WHILE UNITED STATES IS AT WAR.**

**Act 8, E. S. 1917, p. 12.**

**TITLE.**

**AN ACT** to provide for the raising, organization, equipment, discipline and pay of additional military forces to serve within the limits of the State of Louisiana, while the United States is at war, and to provide for the expenses thereof, and to make an appropriation for the purposes of this Act.

**ADDITIONAL MILITARY FORCES.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, While the United States is at war, the Governor shall have the power to raise, organize and equip such additional military forces as he may deem necessary to repel invasion, suppress insurrection, riot, or tumult, maintain order and enforce the laws.

**HOME GUARDS.**

**Sec. 2.** Such forces shall be designated as the "Home Guards of Louisiana" and shall be composed of such men of the reserve militia as shall volunteer for service therein, men up to sixty years of age, if physically fit, may be received in such forces.

**SAME SUBJECT.**

Sec. 3. They shall be additional to and distinct from the National Guard organized under existing law; they shall not be required to serve outside the limits of this State, and no organization thereof shall be subject to draft by the Federal Government.

**COMMAND OF SUCH FORCES.**

Sec. 4. The Governor shall command such forces and shall have power to prescribe the form of enlistment contract and oath and the composition of the territorial, administrative, tactical or other units into which they may be divided; to appoint all officers and fix their rank and to dismiss them at his discretion, but only after such hearing as he shall by general regulation prescribe; to provide the manner of appointing and reducing all non-commissioned officers; and to establish regulations for the discipline and government of the forces authorized hereby.

**PAY.**

Sec. 5. The Governor shall have power to fix their pay and allowances, which, however, shall not exceed the pay and allowances of the National Guard, and to direct the payment of expenses incurred pursuant to his order or regulations; but no member of such forces shall receive pay or allowance from this State except while engaged in active service by order or authority of the Governor.

**POWERS OF "HOME GUARD."**

Sec. 6. When and while called into active service at the request of parochial or municipal authorities, but not otherwise, members of the "Home Guard" shall have the power of Sheriffs, constables and policemen, except the power of executing civil process, and in such cases shall be subject to the command and direction of said parochial or municipal authorities.

**POWERS OF GOVERNOR.**

Sec. 7. The Governor shall have the power on such conditions and under such regulations as he may prescribe, to accept and incorporate into the forces organized under this act any existing organizations which may offer themselves.

**APPROPRIATION.**

Sec. 8. The sum of forty thousand dollars (\$40,000), or as much thereof as may be needed is hereby appropriated out of the revenues of 1917, and the sum of forty thousand dollars (\$40,000) or as much thereof as may be needed is hereby appropriated out of the revenues of 1918, to be expended on the orders of the Governor for the purposes of this Act. The amounts appropriated by Act No. 46 of 1916, for the maintenance of the militia in the field and when called to suppress insurrection or repel invasion, for the year ending June 30, 1917, being the sum of ten thousand dollars (\$10,000), and for the same purposes for the year ending June 30, 1918, being the sum of ten thousand dollars (\$10,000), and for militia purposes, arming, equipment and maintenance of the State Militia for the year ending June 30, 1917, being the sum of thirty thousand dollars (\$30,000), and for the same purposes for the year ending June 30, 1918, being the sum of thirty thousand dollars (\$30,000), or so much of said appropriations as may be unexpended, are hereby transferred to the fund created by this Act in satisfaction of the appropriation here made; provided, that the said appropriations shall also be drawn upon for the satisfaction of any necessary expenditures of the National Guard itself.

**WHEN FUNCTIONS OF HOME GUARD CEASE.**

Sec. 9. Sixty days after expiration of the present war with Germany, the functions of the said Home Guard shall, ipso facto cease and said Guard shall go out of existence.

Note. Enacting clauses are not given in the official edition.  
See Act #4 N. S., 1917, Exercise of franchise by qualified electors absent from their election precincts on military service. Printed under title "Elections." p. 790.

**NAVAL BATTALION.****Act 61 of 1894, p. 70.****TITLE.**

**AN ACT** to establish a naval battalion to be attached to the "Louisiana State National Guard", in the Parish of Orleans, and to amend Act No. 22, of the extra session of the General Assembly of 1878, approved March 30, 1878, entitled an Act to enroll and organize the militia, etc.

**NAVAL BRIGADE.**

Section 1. (As amended by Act 107, 1896, p. 155). That there shall be allowed in addition to the companies of the uniformed organized militia, known as the Louisiana National Guard, in the Parish of Orleans, provided for in Sections 10, 11 and 12 of an act entitled, "An Act to enroll and organize the militia; to organize, arm, and equip a special militia force, to appropriate ten thousand dollars (\$10,000) for arming, equipping and paying the same; approved March 30, 1878, not more than eight divisions of naval militia, which shall constitute a naval brigade, to be known as the Naval Brigade of the Louisiana State National Guard. The Naval Brigade shall be divided into two battalions, the second battalion to be formed when six of the eight divisions herein provided for have been organized and mustered into service. Prior to that time the divisions of naval militia shall constitute a battalion to be known as the "First Naval Battalion Louisiana National Guard."

**COMMAND OF BRIGADE.**

Sec. 2. (As approved by Act 107, 1896, p. 155). That the Naval Brigade shall be commanded, by a captain, who shall be elected by the field and line officers of the two battalions composing the said Naval Brigade, and prior to the formation of the brigade. The First Naval Battalion shall be commanded by a commander, who shall be elected by the line officers of said First Naval Battalion. Each Battalion in the Naval Brigade shall be commanded by a lieutenant commander, who shall be elected by the line officers of said battalions. Each division shall be commanded by a lieutenant and shall contain one lieutenant (junior grade), one ensign, and not less than thirty-six nor more than sixty petty officers and men.

**STAFF.**

Sec. 3. (As amended by Act 107, 1896, p. 155). That the staff of the naval brigade shall consist of one commander, who shall be elected by the field and line officers of the two battalions composing said naval Brigade, who shall be the chief of staff and executive officer; one lieutenant, who shall be brigade adjutant and chief navigating officer; one lieutenant, who shall be chief signal, ordnance and equipment officer, who shall be elected by the line officers of the brigade, one paymaster, one surgeon, and one chief engineer, each with relative rank of lieutenant, one ensign who shall be signal officer, who shall be elected by the line officers of the brigade, and one ensign who shall be aid to the chief of brigade. Prior to the formation of the naval brigade, the staff of the First Naval Battalion shall be as follows:

One lieutenant commander, who shall be elected by the line officer of said First Naval Battalion, who shall be executive officer; one lieutenant, who shall be navigating, ordnance and equipment officer; one ensign, who shall be signal officer, who shall be elected by the line officers of the said First Naval Battalion, one surgeon, one engineer, and one paymaster, each with relative rank of lieutenant (junior grade), and one assistant surgeon with relative rank of ensign.

The staff of each battalion in the naval brigade shall consist of one lieutenant, who shall be battalion adjutant and executive officer, one lieutenant, who shall be navigating, ordnance and equipment officer, who shall be elected by line officers of each battalion, one surgeon and one paymaster, each with relative rank of lieutenant (junior grade), and one assistant surgeon with relative rank of ensign.

**ORGANIZATION.**

Sec. 4. Be it further enacted, etc., That the organization of the Naval Militia shall conform generally to the provisions of the laws of the United States, and the system of discipline and exercise shall conform as nearly as may be to that of the Navy of the United States as is now, or may hereafter be prescribed by Congress, and when not otherwise provided for, the government and command of the militia shall be controlled by the Acts of the General Assembly relating to the Militia and the Louisiana State National Guard.

**SUPPLY OF ARMS, ETC.**

Sec. 5. Be it further enacted, etc., That when the Government of the United States is ready to supply arms and equipment as well as a vessel of war and material and opportunities for naval instruction and drill, the Governor is hereby authorized to make the necessary arrangements to obtain said facilities for the Naval Battalion and carrying the provisions of this act into effect.

**FIRST NAVAL BATTALLION.**

Sec. 4. (Act 107, 1896, p. 155). Be it further enacted, etc., That nothing in this act shall affect the First Naval Battalion Louisiana State National Guard already in existence, except as to such changes as may be necessary to make its organization conform to the provisions of this act, said First Naval Battalion being the battalion mentioned by that name in this act.

**RANK OF OFFICERS.**

Sec. 5. (Act 107, 1896, p. 155). Be it further enacted, etc., That the rank of officers commissioned in the naval militia is naval rank. When called into service the officers of the naval militia shall receive the same pay and allowances prescribed for the corresponding grades in the Louisiana State National Guard.

**WASHINGTON ARTILLERY.**

**Act 57 of 1900, p. 106.**

**TITLE.**

**AN ACT** to authorize the Battalion Washington Artillery to continue in the Military service of the State of Louisiana, as it is now organized and officered.

Be it enacted by the General Assembly of the State of Louisiana, That the Battalion Washington Artillery is hereby authorized to continue in the Military Service of the State of Louisiana, as they were received by His Excellency, Murphy J. Foster, March 13, 1893, as an Independent Command, as they are now organized and officered, receiving orders direct from the Governor, through the Adjutant General of the State of Louisiana.

**DESERTION FROM MILITARY SERVICE.**

**Act 38 of 1906, p. 54.**

**TITLE.**

**AN ACT** declaring that desertion from the military service of the United States, or from the State National Guard, when called forth by the Governor or President, shall operate a forfeiture of the right to participate in elections in Louisiana.

**DESERTERS FROM STATE NATIONAL GUARD FORFEITS RIGHT OF FRANCHISE.**

Be it enacted by the General Assembly of the State of Louisiana, That every deserter from the military service of the United States, or from the militia of this State, when called forth by the Governor, or, in time of invasion, insurrection or rebellion, by the President of the United States,

shall be deemed to have voluntarily relinquished his right to vote at all elections, and shall not be entitled to participate in elections in this State until he shall have returned to the command.

### **ANNUAL ENCAMPMENT.**

**Act 94 of 1908, p. 37.**

**TITLE.**

AN ACT providing for the location each year of the annual encampment of the State National Guard at such place as may be determined by the Governor and the Adjutant General of the State of Louisiana, and repealing Act No. 35 of the General Assembly of 1906.

**PLACE OF ANNUAL ENCAMPMENT TO BE SELECTED EACH YEAR.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana; That the selection of the place for the holding of the annual encampment of the State National Guard shall be fixed each year by the Governor and the Adjutant General of the State of Louisiana, and the Governor and Adjutant General are hereby authorized and empowered to annually select such location in such manner as they shall determine.

**REPEALING ACT 35 OF 1906.**

Sec. 2. Be it further enacted, etc., That Act No. 35 of the General Assembly of 1906 be and the same is hereby repealed.

### **MORTGAGE ON ARMORIES.**

**Act 19 of 1916, p. 49.**

**TITLE.**

AN ACT to authorize the Governor of the State of Louisiana, under certain conditions, to mortgage property belonging to the State and used or to be used as an armory by the Louisiana National Guard.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Governor of the State of Louisiana, at his discretion, be and he is hereby authorized to execute a mortgage on property belonging to the State and used or to be used exclusively as an armory by any part, division or command of the Louisiana National Guard, the proceeds of said mortgage to be expended under direction of the Adjutant General of the State for the construction, repair or improvement of such armory and for no other purpose; provided, that the mortgage so granted and executed shall clearly state and express that the holder of said mortgage shall only have a right in rem against the property so mortgaged for the amount thereof.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

Note.—See Act 118, 1918—Completion of Military Records of Louisiana.

### **MINORS.**

[R. S., Sec. 2316.] Emancipation by judicial decree for minors over eighteen. R. C. C., Art. 385.

[R. S., Sec. 2317.] Judgment in such cases relieves of all disabilities of minority. R. C. C., Art. 386.

[R. S., Sec. 2318.] Where minor has parents, etc., consent necessary; exception. R. C. C., Art. 387.

**[Failure to Obtain Emancipation; Expenses, How Paid.]**

[R. S., Sec. 2319.] Whenever any minor, seeking to avail himself of the provisions of this act, shall fail in obtaining a decree of emancipation, all expenses which he may have incurred shall be paid by his tutor.

*Note.* Under R. C. C., Art. 388, estate pays expenses whether minor fails or succeeds.

[R. S., Sec. 2320.] Jurisdiction of parish courts over minors and others. These courts have no existence under present judiciary system.

[R. S., Sec. 2321.] Repeals so much of C. P., Art. 211 as exempts emancipated minors from arrest for debt incurred after emancipation. See that article.

**[Adoption Permitted.]**

[R. S., Sec. 2322.] Adoption heretofore prohibited by the laws of Louisiana and now authorized by the new Constitution shall hereafter be permitted.

**[Petition For Adoption, Prayer, Etc.]**

[R. S., Sec. 2323.] Any person or persons wishing to adopt a child shall petition the court to that effect; which petition shall state the name or names of the petitioner or petitioners, his, her or their residence or occupation, whether single or married, the name, age and sex of the child, the name of his or her tutor or guardian, whether he or she is an orphan or not, and the reasons for soliciting said adoption, and shall end by a prayer that the petitioner or petitioners be permitted to appear before a Notary Public to execute the act of adoption.

*Note.* An act of adoption properly executed confers on the adopted child all the rights of a legitimate child, provided they do not interfere with the rights of forced heirs. The rights of the adopted child cannot be divested by the will of the adopter, and the disposition of a married woman, who leaves no forced heirs, but an adopted child—in favor of her surviving husband, is reducable to the disposer portion. Suc. of Hasser, 37 A. 840. An adoption executed in Massachusetts of one residing in Louisiana and valid in Massachusetts will be given effect in this state when its enforcement is not repugnant to the laws of this state. Suc. of Caldwell 114 L. 195.

The usufruct of the surviving spouse of the share of the deceased in the community property is not affected by the fact that there is an adopted child of the spouse, surviving the deceased. Suc. of Teller 49 A. 28. See note to R. S. Sec. 2323.

**[Reference to Notary.]**

[R. S., Sec. 2324.] The Judge, when satisfied that there is no objection to said adoption, shall grant the prayer of the petitioner or petitioners, and refer the parties to a Notary Public for the execution of the act.

**[Consent of Tutor, Etc.]**

[R. S., Sec. 2325.] The consent of the tutor or tutrix of the child, whose adoption is solicited, shall be required by the Judge, and if the child be without a tutor the court shall appoint to him a tutor *ad hoc*.

**[Adoption Must Not Interfere With Rights of Forced Heirs.]**

[R. S., Sec. 2326.] Any person or persons, having legitimate issue, may be allowed to adopt any other child, provided that said adoption does not interfere with the rights of forced heirs.

[R. S., Sec. 2327.] Jurisdiction of parish courts. These courts do not exist under present judiciary system.

**[Consent of Parents.]**

[R. S., Sec. 2328.] When the person whose adoption is solicited is a minor, the consent of such person's surviving father or mother, or both, if living, shall be required by the judge, and the said father and mother, or both, as the case may be, may, in the act of adoption, surrender the entire parental authority to the person or persons adopting said minor.

*Note.* R. S. Sec. 2328 applies only to minors. Suc. of Pizzati 141 L. 645. (The subject is very fully discussed in the opinion). See note to act 31-1872 infra and note to R. S. Sec. 2328.

**ADOPTION OF MINORS BY NOTARIAL ACT.****Act 31 of 1872, p. 79.****TITLE.****AN ACT providing the manner of adopting children.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That any person above the age of twenty-one years shall have the right, by act to be passed before any parish recorder or notary public, to adopt any child under the age of twenty-one years, provided, that if such child shall have a parent or parents, or tutor, that the concurrence of such parent, or parents, or tutor shall be obtained and as evidence thereof, shall be required to sign said act.

*Note.* An act of adoption executed by a husband and wife before a notary public, since the enactment of this act, is valid though not authorized by judicial sanction. Suc. of Volmer, 40 A 593. The act has no repealing clause, it does not abrogate the provisions of the Civil Code relative to the adoption of adults. The act applies only to the adoption of minors. Suc. of Caldwell, 114 L 195. Where a minor has neither parent nor tutor, the notarial act by which he is adopted need not be signed by any one for him. The need for a tutor ad hoc under the earlier statutes has been superceded by the latter act. If it be that the child is a foundling, the parents for all the purposes of the adoption, the situation is as if the parents were dead, Suc. of Dupre, 116 L. 1090. The adopting aunt is not entitled to be appointed tutrix of the adopted child, to the exclusion of the maternal grandmother, although the adoption was had with the consent of the parents. In re Brown, 120 L. 50. See note to R. S. Sec. 2328 and 2328.

[R. S., Secs. 2329 to 2343, inclusive.] Deal with the appointment of tutors; right of foreign tutor to sue and recover property situated in Louisiana; the right of parents and other tutors to give special mortgage, recording, and with the administration of minors' property generally. The whole subject is governed by articles of the R. C. C., Arts. 222, 271, 277, 325 to 333, 344, 352, 355, 363, 364.

**[Annual Accounts to Be Filed.]**

[R. S., Sec. 2344.] It shall be lawful for tutors and curators of interdicted persons and of absentees to file annual accounts

of their administration, and to cause them to be homologated, in due course of law, contradictorily with the under-tutor of the minors, and with a curator *ad hoc* of the interdicted person or absentee.

[**Judgment of Homologation is *Prima Facie* Evidence, Etc.**]

[**R. S., Sec. 2345.**] The judgment homologating the accounts as aforesaid shall be *prima facie* evidence of the correctness of the account homologated in any settlement which may afterwards be made with the minor, interdict or absentee.

[**R. S., Sec. 2346.**] Directing amendment of C. C., Art. 285 (R. C. C., Art. 267) so that tutorship will go to nearest kin, etc. R. C. C., Art. 267.

[**R. S., Sec. 2347.**] Directing amendment of C. C., Art. 341 (R. C. C., Art. 347) so that tutor failing to invest funds of minor shall be "accountable only for legal interest." R. C. C., Art. 347.

[**Curator Ad Bona or Ad Litem Not to Be Appointed.**]

[**R. S., Sec. 2348.**] There shall be hereafter no curator *ad bona* or curator *ad litem* appointed in any case; the persons and estates of minors shall in all cases be placed under the power of tutors and undertutors; and their powers, duties and responsibilities, as well as their liability to be removed from office, shall continue until the minors attain the age of majority, or are otherwise emancipated.

[**R. S., 2349.**] Curators, administrators, etc., who leave the State temporarily retain trust if they leave proper power of attorney. R. C. C., Art. 1154.

[**R. S., Sec. 2350.**] Justices of the peace may appoint curators *ad tites* to enable minors to present their claims. C. P., Art. 1155, part 2.

[**R. S., Secs. 2351 to 2353.**] Tutors and others appointed to "fiduciary trust" may, with permission of court, give sureties residing out of parish. Such sureties are subject to jurisdiction of court accepting them. R. C. C., Art. 3042.

[**R. S., Sec. 2354.**] Necessary steps to force principal must be taken before proceeding against surety on bond of tutor, etc. R. C. C., Art. 3066.

[**R. S., Sec. 2355.**] Directs amendment of C. C. 341 as to manner of investing funds of minors. R. C. C., Art. 348.

[**R. S., Sec. 2356.**] Tutor must register bonds with Auditor of State, etc. R. C. C., Art. 348.

[**R. S., Sec. 2357.**] Auditor must keep special book for purpose. R. C. C., Art. 348.

**[Penalty For Tutor's Failure to Register Bonds.]**

[R. S., Sec. 2358.] Any tutor of a minor or minors who shall fail to have the bonds so purchased registered and countersigned, as provided for in this act, shall be deemed guilty of a misdemeanor, and shall be liable to imprisonment for not more than three months and deprivation of his office of tutor.

[R. S., Sec. 2359.] When property of minors may be sold at private sale. R. S., Sec. 2667, title "Partition."

**[Bond of Tutor to Be Recorded Before Appointment.]**

[R. S., Sec. 2360.] Before any appointment of tutor shall be made the bond required by law to be given by such tutor shall be recorded in the mortgage book of the parish in which the tutor resides, and a certificate to that effect shall be presented to the judge authorized to make the appointment, before he makes the order of appointment of tutor, and any order appointing a tutor until this formality is complied with shall be null and void; and it shall be the duty of every judge who appoints and confirms a natural or legal tutor, or any tutor not required by law to give bond, before he shall grant an order appointing or confirming such tutor, to cause a certificate from the clerk of the district court of the amount of the minor's property, according to the inventory on file in his office, to be recorded in the mortgage book in the parish in which the tutor resides, or has his domicile; any appointment or confirmation of such tutor before such recording shall have been done shall be null and void; and it shall be the duty of the tutor and undertutor of any minor to cause the tutor's bond aforesaid, or certificate of the amount of the minor's property, as the case may be, to be recorded in any and every parish in this State, where the tutor owns mortgageable property; the fees for which recording shall be advanced by the tutor. The recording of the tutor's bond, and the recording of the certificate of the amount of the minor's property, shall operate from the date of the recording in each parish, a mortgage on all the mortgageable property then or subsequently owned by the tutor in such parish; any failure or refusal of the tutor or undertutor to comply with the provisions of this section shall subject them to damages in favor of any person injured thereby, in the full amount of such damage, and which claim for damages shall not be prescribed so long as the minor's claim exists against the tutor.

**[Interference With Property of Minor, Etc.; Recording Mortgages.]**

[R. S., Sec. 2361.] When any person, who, without having been appointed tutor or curator of minors (interdicted or absent persons), interfere in the administration of their property, any person shall have the right to record in the book of mortgages of the parish of such persons' domicile the inventory and appraisement of the property belonging to such minors, in-

terdicted or absent person, if there be one, or other written evidence of the amount and value of the minors', interdicted or absent persons' property; and if there be no written evidence thereof, a statement of the property and its value, and of the name of the intermeddler, under oath, made by any person, which, when so recorded, shall operate a mortgage on all the property then or subsequently owned by such person, interfering in the administration as aforesaid; and it shall be the special duty of the parish judge or recorder to cause said record to be made, upon pain of any damages that may result to any such minor, interdicted or absent person, if any such interference come to their knowledge or may be reported to them by any credible person; all expenses so incurred shall be paid by such minor, interdicted or absent person, or out of their effects.

[**Mortgage on Property of Stepfather.**]

[R. S., Sec. 2362.] The tutor's bond or the clerk's certificate, as the case may be, recorded as provided in the second section of this act, shall operate a mortgage on the property, present and future, of the husband in favor of the children of a previous marriage of his wife, when the marriage takes place without the wife being continued in the tutorship by a family meeting, if such husband is domiciled in the parish in which such record was made; and if he is not domiciled in such parish, then it shall be the duty of the undertutor to such minors to cause such bond, or clerk's certificate, to be recorded in the parish in which such husband resides or owns mortgageable property; and any failure of the undertutor to have such recording done shall subject him to any damages the said children of a previous marriage, or any one of them, may have sustained. Such mortgage shall operate from the date of the marriage for all acts of tutorship from that date, if the husband is domiciled in the parish where the same was originally recorded; if not, from the date of the recording in the parish of his domicile.

[**Adjudication of Minor's Property to Parent.**]

[R. S., Sec. 2363.] When mortgageable property has been adjudicated to either parent of the minor, the act of adjudication shall be recorded in the book of mortgages in the parish in which the property is situated, and it shall operate a mortgage and vendor's privilege; the amount of the value as stipulated in the act shall operate a mortgage against such property in favor of the minor; and no such adjudication shall have any legal or binding effect until such record is made.

*Note.* The law requires a decree of adjudication and the registry in the book of mortgages, else there is no divestiture of the title of the minor. *Suc. of Bur-  
gueras.* 104 L. 51. See *Krone vs. Krone*, 138 L. 675.

[**Mortgage on Property of Surviving Parent.**]

[R. S., Sec. 2364.] When the surviving husband or wife or heirs have been invested by the inventory with the care of the property of the community or succession, a certificate from the

clerk of the district court of the amount of the inventories of the minor's property shall be recorded in the mortgage book of the parish in which such party invested with the care of the property is domiciled, and the same shall operate a mortgage on all the present and future property of such person in such parish for all their acts, until they are relieved from the care of the property, or partition is made. It is the duty of the person making the said clerk's certificate to have it recorded as herein provided; and a failure to do so shall subject him to any damage that may result from the failure to perform the duty herein required of him; any person may legally cause such record to be made.

[**R. S., Sec. 2365.**] Record of inventory constitutes mortgage, but is not evidence of debt. See R. C. C. Art. 3357.

**[Duty of Clerks to Make Abstract of Inventories.]**

[**R. S., Sec. 2366.**] (As amended by Act 75, 1870, p. 107.) That it shall be the duty of the clerks of the district courts of the several parishes in the State to make out an abstract of the inventory of the property of all minors whose tutors have not been required by law to give bond for their tutorship; such abstract to describe the real property and give the full amount of the appraisement of all the property, both real and personal, and rights and credits, and to deposit such abstracts with the recorders of the several parishes, whose duty it shall be to record the same as soon as received in the mortgage book of their parish, such abstracts to be made out and deposited with the recorders by the first day of December, eighteen hundred and sixty-nine and recorded by the first day of January, eighteen hundred and seventy. This section to apply only to tutorship granted before the passage of this act, and any failure of the clerks or recorders to perform the services required by this section shall subject them to any damages that such failure may cause any person, and shall further subject them to a fine of not less than one hundred, nor more than one thousand dollars, for the benefit of the public school fund, to be recovered by the district attorney, or district attorney *pro tem.*, before any court of competent jurisdiction; such abstracts, when recorded in any parish in which the tutor owns mortgageable property, shall constitute a mortgage on the said tutor's property until the final settlement and discharge of the tutor. The fees for making out and recording such abstracts shall be the same as the fees prescribed for the clerks and recorders for other similar services, and shall be paid on demand by the respective parishes in which such services were performed; and the parishes shall have recourse against the persons or property for whose benefit the services were performed; and immediately after the payment of such fees by the parish, the District Attorney *pro tempore* shall proceed to collect such fees from the tutor, or, if the minors have arrived at the age of majority, from the minors, and if no responsible person can be found, to pay the

same, then any property owned by the minors, for whose benefit such services were performed, shall be sold to pay the same, and the statement of the clerk or recorder shall be sufficient evidence to entitle the parish to judgment in any suit for such fees.

*Note. This section gives to the minor a mortgage on the property of his parents—whether they are tutors or not—as soon as the inventory of his property is placed of record. Aaron vs. Bayon, 131 L. 228.*

[R. S., Sec. 2367.] Record of Inventory by Parents Taking Possession of Minor's Property. R. C. C., Art. 3350.

[R. S., Sec. 2368.] Liability for Damages—Offenses and Suasi-offenses. R. C. C., Art. 2315.

[R. S., Sec. 2369.] Usufruct of Wife, Rights of Widow and Minor Children. R. C. C., Art. 3252.

## **ADJUDICATION OF PROPERTY IN WHICH MINORS HAVE SHARE.**

**Act 23 of 1916, p. 54.**

### **TITLE.**

AN ACT to prescribe the time after which no action shall lie to set aside and annul judgments of adjudication under Article 343 of the Revised Civil Code where the sole ground of nullity is that the share of the minors and not the whole property held in common was adjudicated.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no action shall lie after the expiration of six months from the passage of this act to set aside any judgment of adjudication under Article 343 of the Revised Civil Code, where the sole ground for the attack upon such judgment is that the share of the minors and not the whole property held in common between them and their surviving parent was adjudicated.

Sec. 2. Be it further enacted, etc., That the limitation provided herein shall apply to minors, interdicted persons, married women and absentees.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent with the provisions of his act, be and the same are hereby repealed.

## **LOUISIANA SOCIETY CRUELTY TO CHILDREN.**

**Act 112 of 1892, p. 151.**

### **TITLE.**

AN ACT relative to the Louisiana Society for the prevention of Cruelty to Children; their officers, agents, and the duties of municipal corporations with respect thereto.

Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for and the duty of the Mayor of any incorporated city or town, and the Police Jury of any parish of this State, to appoint and commission as special police officers the Officers of the Society for the Prevention of Cruelty to Children, and such other agents as such society may nominate; and such officers and agents being so commissioned shall have the usual power of policemen and peace officers; provided, that no city, town or parish shall be liable hereunder for any compensation to such officers and it shall be the duty of the police force of all incorporated cities and towns in the State as occasion may require to aid any such corporation for the prevention of cruelty to children, its members or agents in the enforcement in its respective locality of all laws which are now or may hereafter be enacted for the prevention of Cruelty to Children.

**REMOVAL OF CHILDREN FROM CUSTODY OF PARENTS.****Act 79 of 1894, p. 91.****TITLE.**

**AN ACT** to empower Judges of District Courts throughout the State to remove children from the custody of such parent or parents, tutor or other person having the care of children whenever the physical or moral welfare of such child is seriously endangered by the neglect or abuse of the vicious or immoral habits of the custodian, and to provide such child or children with a home in some institution in the State and to authorize the Louisiana Society for the prevention of cruelty to children to conduct the proceedings and to provide penalties for a violations of this act.

**CAUSES FOR REMOVAL—PROCEDURE.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That whenever an affidavit shall be made before any district judge that the physical or moral welfare of any child in the State is seriously endangered by the neglect, or abuse, or the vicious, or immoral habits, or associations, of its parents, or parent, tutor, or other person having the custody of such child, or that the physical or moral welfare of any such child is seriously endangered by the inability, refusal or neglect of such parents, parent or tutor or custodian to properly care for such child, it shall be the duty of such district judge to summon witnesses, as to the facts set forth in such affidavit, and also such parents, or parent, tutor or custodian of such child, and if the proofs be sufficient to establish the facts set forth in such affidavit, it shall be the duty of such judge to cause such child to be removed from the custody of such parents, or parent, tutor or custodian, and provided with a home or such place for safe keeping and provision of such child as may be available and in his best judgment most suitable.

**INTERFERENCE WITH REMOVAL, ETC.**

**Sec. 2.** It shall be a misdemeanor for said parents or parent, tutor or custodian to interfere with or remove such child from the place so provided without the written consent of such judge, punishable by imprisonment not exceeding 30 days, or fine not exceeding one hundred dollars, or both.

**POWER OF JUDGE.**

**Sec. 3.** Any district judge committing any child under this act shall have the power at any time after making such commitment upon proper showing to restore said child to his parents or parent, tutor or custodian.

**LOUISIANA SOCIETY PREVENTION OF CRUELTY TO CHILDREN.**

**Sec. 4.** The Louisiana Society for the Prevention of Cruelty to Children shall be and the same is hereby authorized to institute and conduct the said proceedings in the name of the State of Louisiana; provided that in case of judgment in favor of the defendant in such proceedings, the said Society for the Prevention of Cruelty to Children shall in no event be liable for any costs of court.

**Note.** Where the welfare of the child requires it, its possession will be given to the grandmother rather than the father, the latter is however, permitted to visit it at all times and is entitled to a hearing in anything relative to its welfare—"the decree is only temporary." *State ex rel Taylor vs. Jones*, 113 L. 298. See *La. Soc. P. C. C. vs. Tyler*, 114 L. 592, where the case was remanded for further hearing. The S. P. C. C. obtained the custody of the child, by an order made in Claiborne Parish, where the child was at the time. It was then taken to New Orleans. Held that the courts of Orleans Parish had jurisdiction. *La. S. P. C. C. vs. Tyler*, 118 L. 425. The father had in a divorce proceeding, alleged that the child was an adulterous bastard. Held the allegation would estop him from later claiming the child. *State ex rel Curtis vs. Thompson*, 117 L. 102.

## MONITION.

### [When Monition Will Be Granted.]

**[R. S., Sec. 2370.]** The purchasers of property at Sheriffs' sales, those made by authority of the court, those made by the Syndics of insolvent estates, and finally, those of any description which are made by the authority of justice, and all subsequent purchasers by a regular chain of title, may protect themselves from eviction of the property so purchased, or from any responsibility as possessors of the same, by pursuing the rules herein-after prescribed.

Note. Property was seized and sold under execution and the purchaser obtained a judgment on monition approving the sale. In a suit to annul the sheriff's authority to sell and the description of the property was attacked. Held the judgment on monition being regular in form, all the requirements complied with, it operated as a bar to further proceedings touching its validity. Want of description, etc., should have been urged at the monition proceeding. *Willis vs. Nicholson*, 24 A 545. A monition which relates to informalities in the decree under which judicial sales are made—and to defective and irregular proceedings connected with the sales—will cure the same defects which are set at rest by the prescription of five years (R. C. C. Art 3543) and both remedies may be invoked to cure the informalities in the assessment and in the sale for taxes. *Kent vs. Brown and Larned*, 38 A 802. See *Kearns vs. Collins*, 40 A 456; *Montgomery vs. Marydale L. & L. Co.* 46 A 408. See note to R. S. Sec. 2376.

### [How Advertised.]

**[R. S., Sec. 2371.]** It shall be the duty of the purchasers, if the purchase has been made within the limits of the city and parish of Orleans, to publish three times, or if the sale has been made out of the limits of the parish and city aforesaid, to publish the same for the same space of time and in the manner required for advertising judicial proceedings, a monition calling on all persons who can set up any right to the property, in consequence of informality in the order, decree or judgment of the court, under which the sale was made, or any irregularity or illegality in the appraisements, an advertisement, in time and manner of sale, or for any other defect whatsoever, to show cause within thirty days from the day the monition is first inserted in the public papers, why the sale so made should not be confirmed and homologated.

Note.—An opponent in a monition proceeding is not required to make an tender as a condition precedent to opposing a confirmation of a sale, and if he has coupled a petitory action with his attack on the monition, want of tender will dismiss the petitory action without operating as a dismissal of the opposition. *In re. Fazendo & Seixas*, 38 a, 1145.

### [Description of Property.]

**[R. S., Sec. 2372.]** This monition shall state the judicial authority under which the sale took place, and shall also contain the same description of the property purchased as that given in the judicial conveyance to the buyer, and shall further declare the price at which the object was bought.

### [Judges Grant Monition.]

**[R. S., Sec. 2373.]** The Judges of the respective courts from which the orders, decrees or judgments may have issued, and in virtue of which the sales ought to be homologated, have been made, shall, on application of the buyer, grant this monition in the name of the State, and affix to it the seal of the court.

**[Judgment.]**

**[R. S., Sec. 2374.]** At the expiration of the thirty days, the party obtaining the monition may apply to the Judge of the court, out of which the monition is issued, to confirm and homologate the sale, and it shall be the duty of the Judge, in case no cause is shown against the prayer for the monition, to homologate and confirm the judicial sale in question; provided always, that before he does so confirm it, he shall be fully satisfied that the advertisements have been inserted in the newspapers, as already directed, and that the property has been correctly described, and the price at which it was purchased, truly paid; but in case opposition be made to the homologation, and it should appear that the sale was made contrary to law, it shall then be the duty of the Judge to annul it, otherwise to confirm it, as in case no opposition was made.

**[Effect of Judgment.]**

**[R. S., Sec. 2375.]** The judgment of the court, on the monition aforesaid, shall be in itself conclusive evidence that the monition has been regularly made and duly advertised, nor shall any evidence be received thereafter to contradict the same, or to prove any irregularity in the proceeding.

**[Effect As Res Judicata.]**

**[R. S., Sec. 2376.]** The judgment of the court, confirming and homologating the sale, shall have the force of *res judicata*, and operate as a complete bar against all persons, whether of age or minors, whether present or absent, who may thereafter claim the property sold, in consequence of all illegality or informality in the proceeding, whether before or after judgment; and the judgment of homologation shall in all cases be received and considered as full and conclusive proof that the sale was duly made according to law, in virtue of a judgment or order legally and regularly pronounced on the interest of parties duly represented.

**Note.** The valid judgment of a court, rendered in a monition proceeding, homologating a tax sale of property, has the force of *res judicata* and operates as a complete bar against minors, and all other parties in interest, on account of any illegality or informality in the proceedings, whether before or after the judgment, and shall be conclusive proof that the sale was made according to law (White J.) *Sewell vs. Watson*, 31 A 588. Irregularities and defects growing out of any judicial or tax sale are as well cured by the lapse of five years as by a judgment in a monition proceeding and minors, married women and interdicted persons are concluded thereby. *Roberts vs. Zansier*, 34 A 205. See note to R. S. Sec. 2370.

**[Effect of Judgment Where Party Not Cited.]**

**[R. S., Sec. 2377.]** Nothing herein contained shall be taken or understood so as to render valid any sale made in virtue of a judgment when the party cast was not duly cited to make defence; and in every case where minors are interested, they shall have their recourse on their tutors, if they have improperly neglected to make opposition to the confirmation of the sale of their property.

**[Costs—By Whom Paid.]**

[R. S., Sec. 2378.] Where no opposition is made to the confirmation of the sale, the costs of attending the proceeding shall be paid by the party for the monition; and where opposition is made, the costs shall be borne by the party against whom judgment is rendered.

**[Time for Payment Not Extended.]**

[R. S., Sec. 2379.] Nothing herein contained shall be construed or understood to authorize the purchaser at a judicial sale to refuse carrying the same into effect, or to delay the payment of the price for a greater space of time than is now allowed by law.

**[Monition in Tax Sales.]**

[R. S., Sec. 2380.] The provisions of the foregoing sections shall be extended to tax sales: provided such sales shall have been made ten years previous to the application for monition.

*Note.* See notes to R. S. Sec. 2370, 2376.

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## MONOPOLIES.

### PROTECTION OF COMMERCE AGAINST MONOPOLY.

Act 86 of 1890, p. 90.

**TITLE.**

AN ACT to protect trade and commerce against unlawful restraints and monopolies and to provide penalties for the violation of this act

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every contract, combination in the form of trust, or conspiracy in restraint of trade or commerce, or to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced or sold in this State is hereby declared illegal.

Sec. 2. Be it further enacted, etc., That every person who shall make any such contract, or engage in any such combination, or conspiracy, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both of said punishment, in the discretion of the court.

Sec. 3. Be it further enacted, etc., That every person who shall monopolize, or attempt to monopolize, or combine, or conspire with any other person or persons, to monopolize any part of the trade or commerce within the limits of this State, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments in the discretion of the court.

Sec. 4. Be it further enacted, etc., That this act shall take effect from and after its passage and promulgation.

*Note.* This and other acts dealing with Trusts and Combinations are considered in *State vs. American Sug. Ref. Co.*, 138 L. 1006, 127 L. 407.

**TRUSTS AND COMBINATIONS.****Act 90 of 1892, p. 120.****TITLE.**

**AN ACT** to prevent trusts or combinations intended to restrain trade or to control the market value of merchandise, produce or commodities and to provide for penalties and punishment of persons, corporations, firms and associations of persons connected with them, and to promote free competition in the State of Louisiana.

**WHAT ACTS ARE UNLAWFUL.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That after the passage of this act it shall be unlawful for any individual, firm, company, corporation or association to enter into, continue or maintain any combination, agreement or arrangement of any kind, expressed or implied, with any other individual, firm, company, association or corporation for any of the following purposes: First, to create or carry out restrictions in trade. Second, to limit or reduce the production, or increase or reduce the price of merchandise, produce or commodities; Third, to prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities. Fourth, to fix at any standard or figure, whereby its price shall be in any manner controlled or established, any articles of merchandise, produce, commodity or commerce intended for consumption in this State. Fifth, to make or enter into or execute or carry out any contract, obligation or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity or article of trade, use, merchandise, commerce, or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves, or others, in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest which they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

**PENALTY FOR VIOLATION BY DOMESTIC CORPORATION.**

Sec. 2. Be it further enacted, etc., That any corporation holding a charter under the laws of the State of Louisiana, which shall be convicted of a violation of the provisions of this act shall thereby forfeit its right and franchises, and its corporate existence shall cease and determine, and it shall be the duty of the Attorney General of his own motion and without leave or orders of any court or judge, to institute an action in the name of the State of Louisiana for the forfeiture of such rights and franchises and the dissolution of such corporation existence.

**SAME BY FOREIGN CORPORATION.**

Sec. 3. Be it further enacted, etc., That every foreign corporation, or any corporation organized under or pursuant to the laws of any State, who shall be convicted of a violation of the provisions of this act is hereby denied the right and prohibited from doing any business within the State, and it shall be the duty of the Attorney General to enforce this provision by injunction or other proceedings in the name of the State of Louisiana.

**VIOLATION DECLARED CONSPIRACY, ETC., PENALTY.**

Sec. 4. Be it further enacted, etc., That any violation of either or all the provisions of this act shall be and is hereby declared a conspiracy against trade, and any person who may be or may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall as principal, manager, director or agent, knowingly carry out any of the stipulations, purposes, prices, rates or orders thereunder or in pursuance thereof, shall be punished by fine not less than one hundred dollars nor more than one thousand dollars, and by imprisonment in the peniten-

tiary not less than six months nor more than one year, or by either such fine or imprisonment in the discretion of the court. It shall be the duty of the district attorneys in their respective jurisdictions and the Attorney General to enforce this provision and any district attorney of any parish securing a conviction under this provision shall be entitled to such fee or salary as by law he is allowed for such prosecution.

**WHAT INDICTMENT SHOULD CONTAIN.**

Sec. 5. Be it further enacted, etc., That in any indictment for an offense named in this act it is sufficient to state the purposes or effects of the trust or combination and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when or where it was created, provided, that no contract or agreement or arrangement which does not include, or which can not be held to include a stipulation between the parties to share in the profits of any such contract, agreement or arrangement, or which contract, agreement or arrangement does not provide for or does not contemplate a profit or pool to be divided between the parties to such contract, agreement or arrangement, shall be held or construed to be in violation of the provisions of this act.

**PROOF NECESSARY.**

Sec. 6. Be it further enacted, etc., That in prosecutions under this act, it shall not be necessary to prove who constitute all the members belonging to the trust or combination.

**VOID CONTRACTS.**

Sec. 7. Be it further enacted, etc., That any contract or agreement in violation of the provisions of this act shall be absolutely void.

**ACT NOT APPLICABLE TO AGRICULTURAL PRODUCTS, ETC.**

Sec. 8. Be it further enacted, etc., That the provisions of this act shall not apply to agricultural products or live stock while in the hands of the producer or raiser; nor be so construed as to affect any combination or confederation of laborers for the purpose of procuring an increase of their wages or redress of grievances.

Sec. 9. Be it further enacted, etc., That this act shall take effect from and after its passage, and that all laws and parts of laws conflicting with same are hereby repealed.

**COMBINATION BY COMMISSION CONCERNS.**

**Act 233 of 1916, p. 500.**

**TITLE.**

**AN ACT** to prevent any persons, firms, partnerships, corporations, associations and others, engaged in selling on commission in this State any agricultural, horticultural, or other products of the farm, forest, lake, gulf, ocean or stream, from entering into any combination, compact, agreement or understanding of any kind to keep market prices below their proper limit, or to charge excessive commission rates, or to in any form, method, or manner, cheat defraud, or swindle the consignor of any lot or shipment of any such products; to provide penalties for violations of any provisions of this Act; to repeal all laws and parts of laws inconsistent with or in conflict with the provisions of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana. That it shall be unlawful for any persons, firms, partnerships, corporations, associations or others engaged in selling on commission in this State, any agricultural, horticultural or other products of any farm, forest, lake, gulf, ocean or stream, to enter into any combination, compact, agreement or understanding to keep the market on such products below their proper limit indicated by the supply and demand thereof, or to charge excessive commission rates, or to in any form, method, or manner, cheat, defraud or swindle the consignor of any lot or shipment of any of such products.

**Sec. 2.** Be it further enacted by the General Assembly of the State of Louisiana, That whoever shall violate any of the provisions of this Act shall be deemed guilty of a crime, and upon conviction thereof before any court of competent jurisdiction shall be sentenced to not less than six nor more than twelve months imprisonment in the parish jail.

**Sec. 3.** Be it further enacted by the General Assembly of the State of Louisiana, That all laws and parts of laws inconsistent or in conflict with the provisions of this Act are hereby repealed.

### **REBATE CERTIFICATES.**

#### **Act 176 of 1894, p. 219.**

##### **TITLE.**

**AN ACT** to declare it illegal for any corporation, or corporations, firms or individuals to issue certificates to be known as Rebate Certificates or any evidence of indebtedness, the contract upon which said certificates are based being to control the business of the party or parties thereto.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be illegal for any corporation or corporations, firms or individuals to issue certificates to be known as Rebate Certificates or any evidence of indebtedness, the contract upon which said certificates are based being to control the business of the party or parties thereto.

**Sec. 2.** Be it further enacted, etc., That it shall be and is hereby declared illegal to impose as a condition that said certificates or evidences of indebtedness shall be binding only in the event said original party to whom same were issued, shall make all purchases from the firm or firms, corporation or corporations, individual or individuals, issuing same or connected in any manner with the firm or firms, corporations or individuals issuing same.

**Sec. 3.** Be it further enacted, etc., That said firm or firms, corporation or corporations, can not urge as a defense to any certificates issued, that their liabilities thereon are based upon the exclusive trade of the party to the contract.

### **SUGAR REFINING.**

#### **Act 10, E. S. 1915, p. 17.**

##### **TITLE.**

**AN ACT** regulating the business of refining sugar in so far as it is necessary to protect same and the public from monopoly therein, and establishing to that end the rules and conditions on which it may be carried on in the State, and prohibiting certain irregularities and practices in said business; defining the business of refining sugar; imposing an inspection fee upon refined sugar; creating the office of State Inspector of Sugar Refining, and such assistants as may be necessary, and providing that the Supervisor of Public Accounts of Louisiana shall be ex-officio State Inspector of Sugar Refining and for his salary, duties, and those of his assistants; providing for the sale or other disposition of refineries kept idle for illegal and monopolistic purposes; permitting the appointment of receivers in certain cases of violation of this law; fixing penalties for the violation of this law, and of the regulations to be promulgated by the State Inspector of Sugar Refining; providing rules of procedure and evidence for the enforcement hereof, and providing for the enforcement of this act by suit to be instituted on behalf of the State by the Attorney General or by the District Attorney of each parish, under the direction of the Attorney General or of the Governor.

### **SUGAR REFINERIES DECLARED PUBLIC UTILITIES.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the business of refining sugar in the State of Louisiana is hereby recognized and declared to be impressed with a public interest by

reason of the nature and by reason of the monopolization thereof; and the sugar refineries now and hereafter operating in the State, in the business of buying raw sugar and manufacturing refined sugar and in the business of manufacturing refined sugar whether the raw sugar is bought or otherwise handled are hereby declared to be public utilities.

**STATE INSPECTOR OF SUGAR REFINERY.**

Sec. 2. Be it further enacted, etc., That the office of State Inspector of Sugar Refining is hereby created, and the Supervisor of Public Accounts for the State of Louisiana is hereby made ex-officio State Inspector of Sugar Refining.

**MONTHLY REPORTS OF INSPECTOR.**

Sec. 3. Be it further enacted, etc., That any person engaged in the business of refining sugar within the State shall make monthly reports to the State Inspector, which shall show the amount of sugar bought and the price; the amount of sugar sold, and the price; the amount of sugar contracted to be sold, and the price; the amount of sugar held on storage, and the cost of holding it; the number of days and hours in operation; the amount of raw sugar taken into process; the amount of refined sugar produced; the repairs made; the amount expended in repairs and in upkeep; the amount expended in general and in overhead charges; the condition of the plant, and the reason for any and all stoppages and for any non-operation of the plant. The data collected under this section shall be consolidated and tabulated every six months, without making any reference therein to any particular refinery, and said tabulation shall be open to the inspection of the public.

**DUTIES OF INSPECTOR.**

Sec. 4. Be it further enacted, etc., That it shall be the duty of said Inspector to inspect the books and accounts, and records, of all concerns engaged in the business of refining sugar at least twice a year; and he may at the direction of the Governor make public such compiled and tabulated data as he may deem beneficial to the sugar trade, but he shall not make public any data relating to any particular refinery. He may also call for special reports from said refineries covering any branch of their business at any time, provided that no special report shall call for the disclosure of any trade secrets.

**INSPECTION FUND—CONTRIBUTION BY REFINERS.**

Sec. 5. Be it further enacted, etc., That every person engaged in the business of refining sugar shall pay, monthly, to the State Inspector of Sugar Refining, for the credit of the fund for the Inspection of Sugar, one-half cent on each and every three hundred and fifty pounds of granulated sugar made, which sum shall be paid into the State Treasury for the account of the fund for the inspection of sugar. Out of the fund hereby created shall be paid a salary of six hundred dollars per annum to the State Inspector of Sugar Refining, and the salaries of such assistants as he may designate, and all expenses of his office.

**REGULATIONS FOR SALE OF SUGAR.**

Sec. 6. Be it further enacted, etc., That it is declared to be unlawful for any person engaged in the business of refining sugar to buy sugar on an ex parte test of its quality, or upon any other weights than those of the actual net contents of any bag or package; and, in furtherance of this prohibition, the State Inspector of Sugar Refining is empowered and he is hereby directed to formulate, and to promulgate, by publication in three consecutive editions of a newspaper published in the City of New Orleans, such reasonable regulations as he may deem proper, and he may, also, formulate and promulgate, from time to time, in the same way, such other reasonable regulations, affecting any branch of the business of sugar refining, as may be conducive to the public interest, and to the prevention of monopoly in the business of refining sugar, or the protection of the public from the consequences thereof.

**WHAT CONSTITUTES MONOPOLY.**

Sec. 7. Be it further enacted, etc., That any person engaged in the business of refining sugar within this State who shall systematically pay in Louisiana a less price for sugar than he pays in any other State shall be prima facie presumed to be a party to a monopoly or combination or conspiracy in restraint of trade and commerce, and upon conviction thereof shall be subject to a fine of five hundred dollars a day for the period during which he is adjudged to have done so. Any person convicted of violating the provisions of this section shall have his license to do business in Louisiana revoked and cancelled; and any domestic corporation shall be liquidated, and any foreign corporation shall be ousted from the State, and its property sold. If the refining business of any person, firm or corporation, is conducted in violation of this provision of this Act, or in violation of the obligation to operate any refinery as a public utility, the court may if irreparable injury to the public interest is shown appoint a receiver over such business at any stage of the proceedings, and the receiver may after he has been sworn and has given bond in such amount as the court shall have fixed be authorized to carry on the business, if the public interest requires it, until the termination of the suit.

**CLOSING REFINERY, ETC.**

Sec. 8. Be it further enacted, etc., That, whenever it shall be made to appear to the satisfaction of any court of competent civil jurisdiction, by affidavit or otherwise, either in limine or after trial, that any refinery has been closed or kept idle for more than one year, it shall be presumed that such refinery was closed and is being kept idle for the purpose of violating or in aid of a violation of this Act, or of the laws of the State forbidding monopolies, combinations and conspiracies in restraint of trade and commerce, but it shall be the duty of the court to receive and consider any and all evidence whether by affidavit or otherwise which may rebut this presumption; and if the court shall find that the facts do not fairly rebut the presumption herein established, then it shall issue an order to the owner of such refinery, requiring that same be sold to bona fide third parties within a delay to be fixed by the court not to exceed six months from the date of such order, and if, at the expiration of that time, said plant be not sold, the court shall appoint a receiver to take possession of same, under such bond as it may fix, and said receiver shall be authorized to make sale, or lease, or other disposition of same, under the direction of the court, all within twelve months of the order appointing him. In computing said period of one year, any plant shall be treated as idle which has not been operating bona fide. No sale or lease under this section or under this act shall be made to any individual who has been connected with the management of said refinery nor to any corporation nor firm composed in whole or in part of said individuals and no corporation or partnership shall buy or lease said plant if more than 30 per cent of its stock be held by former stockholders of the offending corporation. Provided all sales by receivers under this or other sections of this Act shall be made according to the law governing Sheriff's sales.

**RECEIVERSHIP FOR VIOLATIONS—PROCEEDINGS.**

Sec. 9. Be it further enacted, etc., That any person, firm or corporation, owning or operating a refinery who is charged with violating this law, and shall be made defendant in a suit by the State for forfeiture of charter, or for cancellation of license to do business in the State, and for ouster therefrom, may, upon showing by the State that the conspiracy, monopoly, or acts charged are detrimental to the general public welfare, be ruled into court, at any stage of the proceedings, to show cause why an injunction should not issue, or a receiver be ordered to take charge of the defendant's business, with power to operate after having been sworn and given bond as fixed by the court. From the order of the judge, upon any such rule, a suspensive appeal without bond shall lie on the original papers, returnable within five days; and in the appellate court said cause shall be heard and determined within forty days after the appeal is lodged, provided should said appeal be lodged during the vacation of said court said period of forty days shall begin immediately after the termination of said vacation.

**PENALTIES FOR VIOLATIONS.**

Sec. 10. Be it further enacted, etc., That the violation of any of the provisions of this Act, not otherwise provided for, or of any of the regulations promulgated by the State Inspector of Sugar Refining shall be punished by a fine of not less than fifty dollars and not more than twenty-five hundred dollars. Each day's violation of this Act shall constitute a separate offense. This fine, and any other fines, imposed in this Act shall be recovered, and the enforcement of any provisions of this Act may be had in any court of competent civil jurisdiction, at the suit of the State through the Attorney General on his own motion, or through the District Attorney of the district in which the defendant is domiciled, or in which the offense has been committed, when so directed by the Governor, or by the Attorney General.

**WHAT ADMISSIBLE EVIDENCE.**

Sec. 11. Be it further enacted, etc., That in any suit instituted under this Act the judge shall give to books, letters and other documents (or apparent copies thereof), of the defendant full effect as being what they purport to be and as establishing the facts carried on their face unless there is sufficient rebuttal or countervailing proof against same; and such books, letters, or other documents (or apparent copies thereof), shall be received in evidence without other formality than proof of their having been in the archives or in the possession or under the control of the defendant; and the judge shall receive in evidence, any report by any legislative committee of the State of Louisiana, or of the Senate or House of Representatives of the United States, or of any bureau or department, or of any commission, organized or acting under the authority, either of the State of Louisiana or of the Senate or the House of Representatives of the United States pertinent to the issue, and likewise he shall receive in evidence any record or parts of the same of any court of any State, or of the United States, in any suit or legal proceeding to which the defendant is or was a party, provided that the whole of any such record shall be produced, unless it is shown by the certificate of the custodian thereof that the whole record is not obtainable and provided further the testimony of a witness, shall not be received unless the party against whom same is offered has had the opportunity to cross-examine; but the defendant may put such record in evidence whether the State or other plaintiff has had the right to cross-examine or not, and any such report or record or testimony shall be *prima facie* evidence of the facts set forth therein, subject, however, to rebuttal by any competent evidence.

**TRIAL PROCEDURE.**

Sec. 12. Be it further enacted, etc., That in all cases under this law, the defendant shall file all exceptions in limine lites, if need be in the alternative, after the usual delays and such additional delays as the Court may allow, provided, however, that a plea to the jurisdiction shall not be considered waived by other pleas or exceptions filed under the reservation thereof. The Judge shall take up such exceptions in preference over all other business and shall decide all questions raised therein within ten days after submission, and his ruling shall have the effect of *res judicata*, unless the party cast shall appeal, within 5 days. The appeal shall be returnable to the Appellate Court within ten days, where the case shall be heard and determined within forty days. Should said exceptions be overruled by final judgment of the Appellate Court, the defendant must file his answer covering all questions of controverted fact within fifteen days thereafter, and the case may be set down for trial on the application of either party, in which case the Judge shall take up the consideration of the matter, in preference over all other business.

**APPEALABILITY OF INTERLOCUTORY JUDGMENT.**

Sec. 13. Be it further enacted, etc., That any and all interlocutory judgments in cases affected by this Act not otherwise provided for herein shall be appealable within five days, and shall be heard and determined in the appellate court within twenty days after appeal is lodged and any interlocu-

tory judgment not appealed except those rendered during the progress of the trial shall be final; and shall not be reopened on final appeal.

**FEES OF PROSECUTING ATTORNEY.**

Sec. 14. Be it further enacted, etc., That the district attorney, prosecuting any case to judgment for the State under this Act, shall be paid such reasonable fee out of the property of the defendant as the court may fix, same to be taxed as costs.

**WHAT CONSTITUTES "REFINING SUGAR."**

Sec. 15. Be it further enacted, etc., The business of refining sugar within the meaning of this Act is hereby defined to be that of any concern that buys and refines raw or other sugar exclusively, or that refines raw or other sugar from sugar taken on toll, or that buys and refines more raw or other sugar than the aggregate of the sugar produced by it from cane grown and purchased by it.

**DEFINITION OF TERMS.**

Sec. 16. Be it further enacted, etc., That the word "person," or "persons," whenever used in this Act shall be deemed to include all firms, and all corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

**REPEALING CLAUSE.**

Sec. 17. Be it further enacted, etc., That all laws, or parts of laws, in conflict herewith are hereby repealed.

**UNLAWFUL RESTRAINTS—PROCEDURE, ETC.**

**Act 11, E. S. 1915, p. 23.**

**TITLE.**

AN ACT to protect trade and commerce against unlawful restraints, combinations, conspiracies and monopolies, and to provide remedies against same; to provide for the punishment of violations of the provisions of this Act; to confer a cause of action for damages in favor of persons injured by violations hereof; to regulate procedure and evidence in suits, and proceedings under this Act; to provide for the sale or other disposition of property or plants kept idle in violation hereof; to provide for the appointment of receivers in aid of the enforcement of this Act; and to provide for the enforcement hereof in proceedings on behalf of the State instituted by the Attorney General, or by any District Attorney acting under the direction of the Governor or of the Attorney General.

**WHAT CONTRACTS ILLEGAL.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce in the State of Louisiana is hereby declared to be illegal. Every person who shall make any such contract, or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding five thousand dollars (\$5,000.00), or by imprisonment, with or without hard labor, not exceeding three (3) years, or by both said punishments, all at the discretion of the Court.

**PENALTIES—INDIVIDUALS.**

Sec. 2. Be it further enacted, etc., That every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce within the State of Louisiana, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding five thousand dollars (\$5,000.00), or by imprisonment, with or without hard labor, not exceeding three (3) years or by both said punishments, all at the discretion of the Court.

**PENALTIES—CORPORATIONS.**

Sec. 3. Be it further enacted, etc., That whenever a corporation shall violate any of the penal provisions of this Act, such violation shall be deemed to be also that of the individual officers, directors or agents of such corporation who shall have authorized, ordered or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such officer, director or agents he shall be punished by a fine not exceeding five thousand dollars (\$5,000.00), or by imprisonment, with or without hard labor, not exceeding three (3) years, or by both said punishments, all at the discretion of the Court.

**MONOPOLIES PROHIBITED.**

Sec. 4. Be it further enacted, etc., That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or sell, or contract for the sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption or resale within this State, or to fix a price charged therefor, or discount from, or rebate upon such price, on the condition, agreement or understanding that the purchaser or lessee thereof shall not use or deal in the goods, wares, merchandise, machinery or other commodities of a competitor or competitors of the vendor or lessor, where the effect of such sale, or contract for sale, or lease, or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

**WHAT CORPORATIONS SHALL NOT DO.**

Sec. 5. Be it further enacted, etc., That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged in the same line of commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly in any line of commerce. No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in the same line of commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies, or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce; provided, however, that nothing in this section contained shall prohibit corporations from purchasing such stock or other share capital solely for investment, and not using same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition; nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation and holding and owning and voting share capital of subsidiary corporations for the purpose of carrying on their immediate lawful business, or the natural and legitimate branches of extensions thereof, when the effect of such formation is not to substantially lessen competition; nor shall anything herein contained be construed to prohibit any common carrier in this State from aiding in the construction of branches or short lines so located as to become feeders to the lines of the company so aiding in such construction, or from acquiring or owning all or any part of the stock of such branch lines; nor to prevent any such common carrier from acquiring or owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or interest therein is so

acquired; provided, further, that nothing contained in this section shall be held to affect or impair any right heretofore legally acquired.

**JURISDICTION OF COURTS—INJUNCTIONS.**

Sec. 6. Be it further enacted, etc., That the several District Courts of the State are hereby vested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the Attorney General or of the several District Attorneys in their respective districts under the direction of the Attorney General or of the Governor, to institute proceedings to prevent and restrain such violations. Such proceedings shall be by way of petition and by citation, setting forth the case and praying that such violations shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the Court shall proceed as soon as may be, to the hearing and determination of the case; and pending such action, and before the final decree, the Court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the Court before which such proceedings shall be pending, that the ends of justice require that other parties should be brought before the Court, the Court may cause them to be summoned, whether they reside in the parish in which the Court is held or not, and subpoenas to that end may be served in any parish by the sheriff thereof.

**VENUE OF SUITS.**

Sec. 7. Be it further enacted, etc., That any suit, action or proceeding under this Act in the name of the State against a corporation, shall be brought in the parish where it is domiciled, or if it has no domicile in this State, then in any parish in which it may be found or transacts business. That in any suit, action or proceeding brought by or on behalf of the State of Louisiana, under the provisions of this Act, subpoenas for witnesses who are required to attend the Court of this State in any parish in any case, civil or criminal, under this Act, may run into any other parish; provided, that in civil cases no subpoena shall issue for witnesses living out of the parish in which the Court is held a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application being had and cause shown.

**WHO MAY SUE.**

Sec. 8. Be it further enacted, etc., That any person, firm, corporation or association shall be entitled to sue for and have injunctive relief, in any Court of this State having jurisdiction over the parties, against threatened loss or damage by a violation of the provisions of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings and under the laws of Louisiana, and upon execution of proper bonds against damages for an injunction improvidently granted; and upon a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

**WHAT IS PRIMA FACIE EVIDENCE OF VIOLATIONS.**

Sec. 9. Be it further enacted, etc., That a final judgment or decree hereafter rendered in any criminal prosecution, or in any civil suit or proceeding, brought by or on behalf of the United States under the anti-trust laws of said Government, or by or on behalf of this State, under this Act, to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any civil suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto; provided, that this section shall not apply to consent judgment or decree. Whenever any suit or proceeding, civil or criminal, is instituted by the United States, or by this State, to restrain or punish violations of any of the anti-trust laws thereof, the running of prescription of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

**RECEIVERSHIP—SEQUESTRATION.**

Sec. 10. Be it further enacted, That in any case where because of irreparable injury to the public interest injunction has issued, or should issue, under this act, the Court may, if required by the ends of justice, issue such interlocutory orders as it may deem requisite for ex-officio sequestration or for receivership over any property utilized in violating this law, and if the business is one to which a public interest has attached by reason of the monopoly, or other act of the defendant, or by other circumstances or if the public welfare would suffer from the suspension of defendant's business and the impounding of his property as provided herein, the court may order the judicial sequestrator or receiver appointed by him, after such officer has been sworn and has given bond in such amount as the court shall have fixed, to carry on the business of such defendant until the termination of the suit with all powers customary and necessary in a receivership proceeding, either side aggrieved by the judgment appointing or refusing to appoint a receiver to have suspensive appeal to the Court of competent jurisdiction within five days, without bond, upon the original papers and in the Appellate Court of competent jurisdiction said cause shall be heard and determined within forty days after the appeal is lodged; provided, should said appeal be lodged during vacation of said court, said period of forty days shall begin immediately after the termination of said vacation.

**FORFEITURE OF CHARTER.**

Sec. 11. Be it further enacted, etc., That any judgment against a defendant under this act shall carry with it the forfeiture of the charter of a domestic corporation, and its liquidation in accordance with existing laws, and the ouster from the State of a foreign corporation; and the liquidation of its affairs within the State through a liquidating receiver, to be named in the judgment, under such bond as the court may fix; and the sale, under the orders of the court, of any property utilized in any business declared to have been carried on unlawfully under this act.

**PRESUMPTIONS RESULTING FROM CLOSING REFINERY.**

Sec. 12. Be it further enacted, etc., That whenever in any suit on behalf of the State it shall be made to appear to the satisfaction of the court, by affidavit or otherwise, either in limine or upon trial, that any manufacturing plant has been closed and is being kept idle, for more than one year, it shall be presumed that such manufacturing plant was closed, and is being kept idle for the purpose of violating or in aid of a violation of this Act, but it shall be the duty of the court to receive and consider any and all evidence, whether by affidavit or otherwise, which may rebut this presumption; and if the court shall find that the facts do not fairly rebut the presumption herein established, then it shall issue an order to the owner of such plant, requiring that same be sold to bona fide third parties, within a delay to be fixed by the court not to exceed six months from the date of such order, and if, at the expiration of that time, said plant be not sold, the court shall appoint a receiver to take possession of same, under such bond as it may fix, and said receiver shall be authorized to make sale or lease, or other disposition of same under the directions of the court, all within twelve months of the order appointing him. In computing said period of one year, any plant shall be treated as idle which has not been operating bona fide. No sale or lease shall be made to any individual who has been connected with the management of said plant, nor to any corporation or firm composed in whole or in part of said individuals; and no corporation shall buy or lease said plant if more than thirty per cent of its stock be held by former stockholders of the offending corporation. Provided all sales by receivers under this or other sections of this act shall be made according to the law governing Sheriff's sales.

**TRIAL PROCEDURE.**

Sec. 13. Be it further enacted, etc., That in all cases under this law the defendant shall file all exceptions in limine litis, if need be in the alternative, after the usual delays, and such additional delays as the Court may allow, provided, however, that a plea to the jurisdiction shall not be considered waived by other pleas or exceptions filed under the reservation

thereof. The judge shall take up such exceptions in preference over all other business and shall decide all questions raised therein within ten days after submission, and his ruling shall have the effect of res judicata, unless the party cast shall appeal within five days. The appeal shall be returnable to the appellate court within ten days where the case shall be heard and determined within forty days. Should said exceptions be overruled by final judgment of the appellate court, the defendant must file his answer covering all questions of controverted fact within fifteen days thereafter and the case may be set down for trial on the application of either party, in which case the judge shall take up the consideration of the matter in preference over all other business.

**APPEALS OF INTERLOCUTORY JUDGMENTS.**

Sec. 14. Be it further enacted, etc., That any and all interlocutory judgments in the cases affected by this act not otherwise provided for herein shall be appealable within five days and shall be heard and determined in the appellate court within twenty days after appeal is lodged, and any interlocutory judgments not appealed, except those rendered during the progress of the trial, shall be final; and shall not be reopened on final appeal. Such appeals shall be on the original papers, on the order of the district judge, if a transcript cannot be prepared in time.

**FEE OF PROSECUTING ATTORNEY.**

Sec. 15. Be it further enacted, etc., That the district attorney, prosecuting any case to favorable judgment for the State under this Act, shall be paid such reasonable fee out of the property of the defendant as the court may fix, same to be taxed as costs.

**DAMAGES TO INJURED PARTIES.**

Sec. 16. Be it further enacted, etc., That any person who shall be injured in his business or property by any person or corporation by reason of any act or thing forbidden or declared to be unlawful by this Act, may sue therefor in any court of competent jurisdiction and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

**WHAT ADMISSIBLE IN EVIDENCE.**

Sec. 17. Be it further enacted, etc., That in any suit under this act, the judge shall give the books, letters, and other documents (or apparent copies thereof) of the defendant, full effect as being what they purport to be and as establishing the facts carried on their face, unless there is sufficient rebuttal or countervailing proof, against same; and such books, letters or other documents (or apparent copies thereof), shall be received in evidence without other formality than proof of their having been in the archives or in the possession or under the control of the defendant, and the judge shall receive in evidence any report by a legislative committee of the State of Louisiana, or of the Senate or House of Representatives of the United States or of any bureau or department or of any commission organized or acting under the authority either of the State of Louisiana or the United States, pertinent to the issue and likewise it shall receive in evidence any record or parts of the same of any court of any State or of the United States in any suit or legal proceeding to which the same defendant is or has been a party, provided that all of said record must be produced unless the certificate of the custodian thereof shows that all of it is not obtainable, provided further, that the testimony of a witness shall not be received unless the party against whom same is offered has had the opportunity to cross-examine; but the defendant may put such record, or parts of same, in evidence whether the State or other plaintiff has had the right to cross-examine or not and in the absence of denial, or explanation or counter-proof, any such report, or record, or testimony, shall be *prima facie* evidence of the facts set forth therein.

**WHO MAY INSTITUTE SUITS.**

Sec. 18. Be it further enacted, etc., That all suits for the enforcement of this Act shall be instituted in the District Courts of competent jurisdic-

tion by the Attorney General, on his own motion or by direction of the Governor, or by the District Attorney, acting under instruction of the Governor, or Attorney General but when the penalty of imprisonment is demanded the prosecution shall be in accordance with the general statutes regulating criminal procedure.

**DEFINITION OF TERMS.**

Sec. 19. Be it further enacted, etc., That the term commerce as used herein means trade or commerce within the State of Louisiana; and the words "person" or "persons" whenever used in this Act shall be deemed to include corporations, firms, partnerships and associations existing under or authorized by the laws of the United States, or the laws of any State or Territory therein or of any foreign country.

**REPEALING CLAUSE.**

Sec. 20. Be it further enacted, etc., That all laws, or parts of laws in conflict herewith, be and the same are, hereby repealed.

*Note. This and other acts dealing with Trusts and Combinations are considered in State vs. American Sugar Ref. Co., 138 L 1008, 137 L 407*

**PROCEDURE IN ANTI-TRUST CASES.**

**Act 12, E. S. 1915, p. 30.**

**TITLE.**

AN ACT authorizing special procedure, and the making of preliminary investigations before the filing of suit in anti-trust cases, for the better enforcement of the anti-trust or anti-monopoly laws of the State; providing for the subsequent use of the testimony taken hereunder and making violations of certain provisions of this act contempt of court and prescribing penalties therefor.

**OBTAINING ORDERS—DIRECTING PARTIES TO ANSWER MATERIAL QUESTIONS, ETC.**

Sect. 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the Attorney General or District Attorney acting under him, or the Governor, deems it advisable before beginning any action or proceeding against any pool, trust, conspiracy or combination made, arranged, agreed upon, or entered into whereby a monopoly in the manufacture, production or sale in this State of any article or commodity is, or may be, sought to be created, established or maintained, or whereby competition in this State in the supply or price of any article or commodity is or may be restrained or prevented, he may present to any court of competent jurisdiction an application, in writing, for an order directing any such persons, as the Attorney General or District Attorney may require, to appear before any judge, clerk of court or notary public designated in said order and answer such relevant and material questions as may be put to them concerning any illegal contract, arrangement, agreement or combination in violation of the laws of this State against pools, trusts, agreements, combinations and conspiracies in restraint of trade, or to regulate, fix or maintain the price of any commodity or to create any monopoly therein, and if it appears to the satisfaction of the court to whom the application for the order is made that such an order is necessary or expedient, then such order shall be granted. Such order shall be granted without notice, unless notice is required to be given by the court to whom the application is made, in which event an order to show cause why such application shall not be granted shall be made containing such preliminary injunction or stay as may appear to said court to be proper or expedient, and shall specify the time when and the place where the witnesses are required to appear.

**PROCEDURE FOR AND TERMS OF ORDER.**

Sec. 2. Be it further enacted, etc., The order for such examination must be signed by the judge making it, and the service of a copy thereof, with an endorsement signed by the Attorney General or District Attorney, to the effect that the person named therein is required to appear and be ex-

amined at the time and place and before the officer specified in such endorsement, shall be sufficient notice for the attendance of witnesses. Such endorsement may contain a clause requiring such person to produce on such examination all books, papers and documents in his possession or under his control, relating to the subject of such examination; provided, however, that the production of books and papers for inspection shall always be subject to the order of the judge who has ordered such examination, and either party may, by a petition, ask that the said judge pass on the questions as to whether or not said books or papers should be produced and examined and introduced in evidence. The order to appear as a witness may be served and return of service shall be made in the same manner and by the same officer by whom a subpoena may now be served. The place fixed for the examination shall be that most convenient to the person or concern being investigated, but need not be fixed in the parish of his or its domicile. Any appeal from any order granted under this Act shall be within 5 days and shall be heard and determined in the Appellate Court within 40 days from the time same is lodged, or, if the Court is in vacation, within 40 days after the assembling thereof.

**TESTIMONY OF WITNESSES.**

Sec. 3. Be it further enacted, etc., The testimony of each witness must be subscribed by him, and all testimony taken by such officer must be certified and delivered by him to the Attorney General or District Attorney, after the close of the examination. The officer shall cause said testimony to be taken down by competent stenographers; provided, that no witness shall be permitted to refuse to produce books or papers in accordance with an order made under the provisions of this article, or to answer any questions in reference to the subject matter of such litigation upon the ground that to produce such books and papers or to answer such questions would tend to incriminate him or subject him to a penalty or a forfeiture; but no such witness shall be liable to prosecution, or subject to any action or penalty or forfeiture on account of any transaction, matter or thing concerning which he may testify or produce books or papers. The said officer may adjourn such examination from time to time, and witnesses must attend accordingly.

**TESTIMONY NOT TO BE MADE PUBLIC; EXCEPTIONS.**

Sec. 4. Be it further enacted, etc., That no testimony taken under this Act shall be made public, unless by order of the Governor, for the use in proper judicial proceedings; and any person giving unlawful publicity to said testimony shall be in contempt of the court issuing the original order, and subject to a fine of not less than fifty dollars nor more than two thousand dollars or to imprisonment of not less than five days nor more than six months or to both in the discretion of the court. Any and all testimony taken under this act shall be heard in the presence of the interested parties and their attorneys only but same may be introduced in evidence in subsequent proceedings by the State against the person, firm or corporation investigated, unless, in the discretion of the trial court, the defense would be unfairly affected thereby. The Attorney General or District Attorney, by whom the testimony is received from the officer taking same, shall seal the same and forward it to the Governor who shall be the custodian thereof.

**FAILURE OF WITNESSES TO APPEAR—PENALTY.**

Sec. 5. Be it further enacted, etc., That if any witness or witnesses be properly served, as herein provided, with notice to appear and testify, and fails to obey said notice, or appearing, refuses to testify, or to produce books or papers, the Attorney General or District Attorney may file a statement, with the judge, setting out such facts, and said judge may, if he deems it proper, issue a citation to said parties causing them to forthwith appear and show cause why he or they should not be fined or imprisoned, or both, for contempt. And in such contempt proceedings, the judge shall have full power to either fine in any amount not exceeding two thousand dollars or to imprison for not longer than six months, or both, as the punishment for either failing to appear and testify or appearing, failing to testify, or to produce books and papers when so ordered to do.

**TAXATION OF COSTS.**

Sec. 6. Be it further enacted, etc., That the judge may make such order as may be just concerning the taxation and payment of costs in the proceedings herein provided for against the person examined, or any corporation, copartnership, joint stock company or combination of persons interested in or connected in any way with the subject of such examination. Costs taxed shall be collected in the ordinary way costs are now collected in the district courts, and an itemized statement thereof shall be filed with the clerk of the district court to whom all costs must be paid.

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

**PROCEDURE AND EVIDENCE IN SUITS RELATING TO TRUSTS.**

**Act 288 of 1914, p. 589.**

**TITLE.**

**AN ACT** to establish procedures and rules of evidence in proceedings under the laws of Louisiana relating to trusts, monopolies, and combinations in restraint of trade, commerce or any other business.

**TAKING TESTIMONY SPECIAL COMMISSIONERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever any action is commenced by the Attorney-General, or by any district attorney, acting under his direction, or that of the Governor, to enforce the provisions of any law of the State respecting monopolies, or combinations or conspiracies in restraint of trade, commerce or business and said officer representing the State either upon the trial of the case or in preparation for the trial thereof, desires to take the testimony of any officer, director, agent or employee of any foreign or domestic corporation, or joint stock association proceeded against, or in case of any copartnership, any member thereof, or in case of any individual or individuals, either of them, and the person or persons whose testimony is desired, resides either within or without the State of Louisiana, the said officer shall file in said court where the action is brought, either in term time or in vacation, or with any special commissioner who may be appointed by the court to take testimony, as provided for in this act, a statement in writing setting forth what the State expects to prove, and the name or names and residences of the person or persons whose testimony he desires to take, and shall designate specifically any and all books, papers or documents he desires produced, and the time when and place where, either within or without this State he desires such person to appear and testify, or to produce books, papers and documents, if any are desired; and thereupon the judge of said court, or the commissioner, as the case may be, before whom said testimony is being or shall be taken, shall immediately issue a notice in writing, directed to the attorney or attorneys of record, in said cause, or an officer or the attorney in fact of any corporation or joint stock association, or directed to the attorney or attorneys of record of any copartnership, individual or individuals or to any member of such copartnership or to any individual or individuals who are defendant or defendants in said action, notifying said attorney or attorneys of record, or officer, or agent, aforesaid, or members or members of any copartnership, or individual as herein provided, that the testimony of the person or persons, named in said notice, is desired, and requiring said attorney or attorneys of record, or such officer, or agent, aforesaid, or member of such copartnership, or any individual to whom said notice is delivered, or upon whom the same is served, to notify and have said witness or witnesses whose testimony or evidence it is desired to take, at the place named in said notice, at the time fixed herein, before the court or special commissioner named, then and there to testify, and then and there to have and produce such books, papers and documents as are called for, and for any of the purposes herein provided; provided, that if the taking of such evidence be not concluded on the day and date specified in said notice, the court or the commissioner, as the case may be, may continue the

taking of same from day to day, or adjourn from day to day, at the same place, until the taking of such evidence has been concluded.

**FOREIGN CORPORATIONS—WHEN FACTS TAKEN AS CONFESSIONED.**

Sec. 2. Be it further enacted, etc., That whenever any officer, director, or agent of any foreign or domestic corporation or joint stock company, authorized to do business in this State, or any member of any copartnership or any individual, against whom suit has been filed or the attorney or attorneys of record of any such corporation, joint stock association, copartnership or individual, shall be notified in accordance with the provisions of this act, that any of the books, papers, or documents belonging to such corporation, joint stock association, copartnership or individual are wanted before the court, or special commissioner, as provided in this act, and of what the State expects to prove thereby it shall be the duty of such defendant corporation, joint stock association, copartnership or individual, as the case may be, to produce and present, or to cause to be produced and presented, as required in said notice, all such books, papers and documents belonging to any such defendant or under such defendant's control as may be specified in said notice, in court or before said special commissioner, at the time and place so specified, and in the event of the failure or refusal of any such corporation, joint stock association, copartnership or individual to comply with any of the provisions of this section, it shall be the duty of the court, upon the motion of the officer representing the State, to order that the facts contained in the statement of what the State expects to prove, be taken as confessed.

**DUTIES OF ATTORNEYS OF RECORD TO PRODUCE PERSONS, ETC.**

Sec. 3. Be it further enacted, etc., That whenever any attorney or attorneys of record, or officer, or agent of any corporation or joint stock association proceeded against, as herein provided, shall be notified that any officer, director, agent or employee of any such corporation or joint stock association is wanted before said court, or any special commissioner, as provided herein, to give his testimony or to produce any such books, papers or documents of said corporation or joint stock association, as the case may be, for the purpose of enabling the State to prove such facts as may be stated by the representative of the State or if any attorney or attorneys of record of any copartnership or individual shall be notified that any member or members of said copartnership, or any individual, who are defendants in any such action are desired as witnesses, or to produce books, papers or documents, before any court or before any special commissioner appointed to take testimony in said proceedings, as herein provided for the purpose aforesaid; it shall be the duty of such attorney or attorneys of record, or any such officer, director or agent to immediately notify any such person of the time and place where he shall attend and give his testimony, or produce any such books, papers or documents if any are desired; provided, however that if the testimony of any witness who resides without the State, or any books, papers or documents actually within the State, be desired, such witness shall be ordered to appear and such books, papers and documents to be produced before the commissioner at a place outside of the State convenient to said witness and to the location of such books, papers and documents and if the person or persons whose testimony is desired, as herein provided, shall fail to appear, or appearing shall refuse to testify or shall fail to produce whatever books, papers or documents he or they may be ordered to produce as before provided, then it shall be the duty of the court, upon motion of the Attorney-General, or district attorney, on proof of such refusal, failure or dereliction to order that the facts contained in the statement of what the State expects to prove to be taken as confessed against said delinquent defendant, who has himself, or being a corporation or joint stock association, whose officer, agent, director or employee, as herein provided, has refused or failed to attend and testify, or to produce all books, papers or documents demanded, which were in the custody or subject to the control of such witness or witnesses, or corporation or joint stock association; provided however, that if any such defendant shall file a sworn denial in writing, in said court, setting forth that such failure

or refusal did not arise by reason of any fault or procurement of defendant, the court shall hear evidence upon that issue, and if the defendant shows to the satisfaction of the court that any witness who failed to attend did not do so at the instance or procurement of said defendant, or that the books, papers or documents demanded were not in its possession or control and could not be produced, and that such defendant has complied with all the provision of this act, within such defendant's power to perform, then in that event the order taking pro confessis because of the failure of the witnesses to attend, who could not be so procured, or because of the failure to produce the books, papers or documents not in the possession or under the control of such defendant shall be revoked; but the court shall have the power to enter such further orders in respect to the matter in controversy as it may deem necessary for the proper administration of justice; provided further, that in any proceeding had before a special commissioner, as herein provided, the certificate of the special commissioner showing the failure or refusal of any such witness or witnesses to appear and testify, or to produce any books, papers or documents desired, shall be sufficient *prima facie* evidence of such failure, refusal or dereliction on the part of any such defendant, when same is filed in court. Any witness attending any proceeding herein provided for in compliance with any notice or subpoena issued by authority of this act, shall receive as compensation one dollar per day for each day of his attendance, and four cents per mile traveled computed upon the shortest practicable route; any claim for fees and mileage shall be filed with the court, or special commissioners, and sworn to by said witness, and shall be taxed as costs and collected as other costs in civil cases.

**COURT MAY APPOINT SPECIAL COMMISSIONER TO TAKE TESTIMONY.**

Sec. 4. Be it further enacted, etc., That any court, or presiding judge, thereof, in which any proceeding as herein provided is pending, in term time or in vacation, upon application therefor, made by the Attorney-General, or district attorney, acting under his direction, shall appoint some well qualified disinterested person as special commissioner, to take testimony, or in any such case, at any point either within or without the State, as designated in such application, or where requested by either party to said cause of action, upon the issues joined in said cause, such special commissioner shall have full power and authority to issue notices necessary for the enforcement of this act, and to issue subpoenas for witnesses, compelling the attendance of such witnesses, the production of books, papers or documents, to issue attachments, to punish for contempt to the same extent as provided by law for said court; to administer oaths to witnesses; to have all witnesses examined orally, which testimony shall be reduced to writing and may be taken down by a competent stenographer and transcribed, and shall be signed and sworn to by said witness. The person appointed as special commissioner in any case shall qualify by taking oath prescribed for notaries public, and shall, with all convenient speed, certify and return the testimony taken by him to the court appointing him; and said commissioner shall note all objections to testimony, and shall not exclude any testimony, and all questions as to the materiality or admissibility of same shall be reserved for the court trying the case, and such testimony so taken may be read in evidence upon the trial of the suit in which same was taken, subject to all legal objections which might be made to same. The compensation of such commissioner shall be his actual expenses in traveling and such fees as are allowed a notary public in taking depositions, to be taxed up as costs and connected in the same manner as now provided by law for district clerks in civil cases.

**TEN DAYS NOTICE TO WITNESS REQUIRED TO PRODUCE BOOKS, ETC.**

Sec. 5. Be it further enacted, etc., That when any notice is issued and served as provided for in this act, ten full days exclusive of the day of service shall elapse before any witness so requested shall be compelled to appear and testify, or produce any books, papers or documents called for,

provided, however, that additional time beyond the ten days fixed herein shall be granted upon it being shown that a witness or books, papers or documents called for cannot be produced within such time; provided further, that the commissioner may make orders extending the time for the production of particular books, papers and documents; and if the taking of testimony shall not be concluded on the date named in said notice, the witness or witnesses shall remain in attendance from day to day until the same is completed or said witness is finally discharged by the court, or commissioner, as the case may be; service of said notice and the return thereon may be made by any sheriff or constable of this State, or by any disinterested person competent to make oath of the fact, and shall be made by said person executing the same, by delivering to the person or persons, attorney or attorneys to be served a true copy of such notice, and return of such service shall be endorsed on or attached to the original notice; it shall state when the same was served and the manner of service, and upon whom served, and shall be signed, and if served by any person other than any officer, shall be sworn to by the party making the service before some officer authorized by law to take affidavits, and such affidavit shall be certified under the hand and official seal of such officer.

#### **WHAT WILL BE DEEMED EVIDENCE TENDING TO ESTABLISH MONOPOLY.**

Sec. 6. Be it further enacted, etc., That the fact that any corporation doing business in this State and in other States and engaged in this State and in other States in buying the products of such States in any market thereof, is systematically and without serious and substantial reasons therefor, paying a smaller price for the products of Louisiana than for the similar products of such other States, shall be considered as evidence in any proceeding to enforce the anti-trust laws of this State against such corporation, tending to establish the charge of monopoly or restraint of trade or commerce or business; and likewise, proof that such defendant likewise discriminates against the product made or grown in Louisiana in favor of the similar product made or grown in foreign countries and imported into Louisiana, shall have and be entitled to the same effect.

#### **JUDGE MAY ORDER INJUNCTION.**

Sec. 7. Be it further enacted, etc., That where a case is presented under the foregoing section, the judge before whom the action is pending, may on proper showing by rule, issue an injunction, without bond, restraining the defendant from continuing such practices until the termination of the suit, or from destroying or concealing its books or records, but this remedy shall not be exclusive of such other remedies as may flow from existing laws.

#### **ORDER FOR PRODUCTION OF BOOKS.**

Sec. 8. Be it further enacted, etc., That in any proceeding brought under this act, the judge, if it be shown upon a summary trial by rule that there is grave danger that the defendant will conceal or destroy its books and records, may without exacting bond, issue an order to the sheriff directing him to seize and deliver into the custody of the court all such books and papers; provided, however, that all such books and papers shall remain in the exclusive custody of the court and shall be available to the defendant for the preparation of its defense and the conduct of its business.

#### **USE OF DECREE AS EVIDENCE IN OTHER CASES.**

Sec. 9. Be it further enacted, etc., That where a decree shall have been entered against a defendant in any proceeding under this, such decree and any and all evidence of facts found by the court in support of the decree shall be admissible in evidence against the same defendant in any State court in any suit which shall be filed when such facts are again in issue.

#### **REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are repealed, but otherwise the provisions of this act shall be cumulative of all laws of this State, and shall not be construed as re-

pealing any other consistent law relating to the taking of testimony or evidence; but shall be construed as providing an additional means of securing evidence for the enforcement of the laws as herein provided.

*Note.* The district attorney for the Parish of Orleans is without capacity to represent the State in suits brought under this act. *State vs. American Sugar Ref Co.* 137 L 407. See same *vs. same*, 138 L 1006.

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## MORTGAGE.

[R. S., Sec. 2381.] Mortgage for the preservation of the dotal and paraphernal rights of married woman. R. S., Sec. 3988, Title "Woman."

[R. S., Sec. 2382.] Mortgage results from recording of Inventory of Minors' property. R. S., Sec. 2360, Title "Minors."

[R. S., Sec. 2383.] Mortgage on property of intermeddlers results from recording of Inventory of property belonging to Minors, Interdicts, etc. R. S., Sec. 2361, Title "Minors."

[R. S., Sec. 2384.] Mortgage on property of Curator, etc., results from recording of Inventory of property of minors, etc. R. S., Sec. 1100, Title "Curator."

[R. S., Secs. 2385 to 2387.] Mortgage on property of tutrix, husband and surviving parent. R. S., Secs. 2362-2364, Title "Minor."

[R. S., Sec. 2388.] Recording of notarial and public acts, of acts under private signature, of unwritten acts, steps required. R. C. C., Art. 3848.

### [Books in Whch All Mortgages Shall Be Recorded.]

[R. S., Sec. 2389.] All mortgages and privileges shall be recorded in the same book or series of books in each parish; this act being intended to do away with separate mortgage books in each parish.

[R. S., Sec. 2390.] Record of act operates as mortgage, but is not evidence of debt. R. C. C., Art. 2257.

[R. S., Sec. 2391.] Record of Abstract of Inventory of Minors' property, where tutors are not required to give bond, etc. R. S., Sec. 2366, Title "Minors."

[R. S., Sec. 2392.] Parents taking possession of the property belonging to their minor children, must make and record Inventory. R. C. C., Art. 3350.

[R. S., Sec. 2393.] Effect of recording Bills of Sale, etc., of ships, etc. R. S., Sec. 3670, Title "Steamboats, Vessels and Other Water Craft."

[R. S., Sec. 2394.] Waiver of Mortgage Certificate by parties to acts of sale, etc., before Notary. R. S., Sec. 2514, Title "Notaries Public."

[R. S., Sec. 2395.] Mortgage on expropriated property referred to proceeds. R. S., Sec. 1491, Title "Expropriation."

[R. S., Secs 2396 to 2398.] Mortgages by railroad, plank road, etc., companies. R. S., Secs. 692 to 694, Title "Corporations."

[**Reinscription of Mortgages.**]

[R. S., Sec. 2399.] Article three thousand three hundred and thirty-three of the Civil Code of Louisiana be, and the same is hereby so amended, that the rule requiring the re-inscription of mortgages, at the expiration of ten years from date of their registry, shall not apply to the mortgages which have been or may be given by the stockholders of the various property banks of this State.

Article three thousand three hundred and thirty-three of the Civil Code shall be so amended that it shall be the duty of the recorder of mortgages, or person acting as such, to cancel and erase, on the simple application in writing to that effect, by the owner, creditor of the owner, or other party interested, all inscriptions of mortgages which have existed, or may exist on their record for a period exceeding ten years, without a renewal of such inscription; provided, however, that this section shall not apply to mortgages against husbands for the dotal and other claims of their wives, to mortgages against tutors and curators in favor of minors, interdicted or absent persons, nor to mortgages in favor of the property banks.

[**Reinscription for Poydras Legacy Not Required.**]

[R. S., Sec. 2400.] The re-inscription of mortgages required by Article 3333 of the Civil Code, shall not apply to mortgages now recorded, or which may hereafter be given and recorded in favor of the Commissioners of the Poydras legacy, out of the funds bequeathed by the late Julien Poydras to the indigent girls of the parishes of West Baton Rouge and Point Coupée.

[R. S., Sec. 2401.] Release of mortgages, how obtained. R. C. C., Art. 3374.

[**Officers May Give Special in Lieu of General Mortgage.**]

[R. S., Sec. 2402.] All Persons holding office in the State of Louisiana, and who, being bound by law to give security, have availed themselves of the privilege to give a special mortgage, under existing laws, are authorized to have such special mortgage transferred on other property, by applying to the Governor in the manner hereinafter specified.

**[Manner of Making Transfer From General to Special Mortgage.]**

**[R. S., Sec. 2403.]** It shall be the duty of all persons disposed to avail themselves of the preceding section, to apply by petition to the Governor of the State, who shall appoint two discreet and proper persons to value the property offered in lieu of that already mortgaged; and if, by appraisement of the property to be made under oath, it appears that the value thereof is sufficient to answer for the sum required by law for their securities, then it shall be the duty of the Governor, after accepting the new mortgage, to have the same recorded in the manner directed by law, and to raise, annul, and cancel all anterior special mortgages, so far as the State may be interested.

**[R. S., Sec. 2404.]** Auctioneers before making sale of Real Estate must read mortgage certificate. R. S., Sec. 3395, Title "Sales."

**[R. S., Secs. 2405 to 2412.]** Relate to bonds of officers, their acceptance, record and in whose favor they shall be made. All these sections are combined in R. S., Sec. 351, Title "Bonds."

**[R. S., Secs. 2413 to 2416.]** Bonds of Tax Collectors operate as legal mortgage. Superseded by constitutional and legislative provisions noted under R. S. Sec. 3238 *et seq.*, Title "Revenue and Taxation."

**[R. S., Secs. 2417 to 2423.]** Property of principal which may be seized in execution on bond of officer. Sureties' right to limit liability and of discussion. Special in lieu of general mortgage, etc. R. S., Secs. 354 to 361, Title "Bonds."

**[Bonds Which Do Not Operate as Mortgage.]**

**[R. S., Sec. 2424.]** Hereafter no notary, parish recorder, or register of mortgages, in making certificate of mortgage, shall mention in his certificate the fact of registration of the bond of any administrator, curator of vacant successions, or of absent heirs, the proper construction of the article one thousand one hundred and twenty-four [R. C. C., Art. 1131] not giving to such bonds, when registered, the force of a mortgage.

**[R. S., Secs. 2425, 2426.]** Bonds of Clerks of District Courts. R. S., Sec. 462, and acts there printed.

**[Mortgages by Railroad Companies.]**

**[R. S., Sec. 2427.]** Any railroad company established under the laws of this State may, to secure payment of any obligation contracted by said company for the construction of the road, mortgage their road, in whole or in part; and such mortgage, if made of the entire road, shall bear upon the entire road, though the same be not completed at the time the mortgage was

made; and such mortgage may also be made to bind the appurtenances of said road, its warehouses, depots, water stations, locomotives, etc.

[Effect on Property Mortgaged—Where Recorded.]

[R. S., Sec. 2428.] A mortgage made by any of the companies shall bind the road, its warehouses, depots, water stations, locomotives, and other appurtenances, that may be mortgaged in the several parishes where the same may be, by the record of the mortgage in the parish where the principal office or domicil of the road may be; and such mortgage need not be reinscribed to continue it in force.

[R. S., Secs. 2429 to 2431.] In a marriage contract, or during marriage, a special may be given in lieu of a general mortgage. Consent of family meeting required where wife is a minor. R. C. C., Arts. 2378 to 2380.

[R. S., Secs. 2432 to 2434.] Grant of mortgage by married woman of age to secure loan, authorization of husband and consent of judge. Proceedings to obtain, etc. R. C. C., Arts. 126 to 128.

[R. S., Sec. 2435.] Special in lieu of general mortgage by surviving parent. R. C. C., Art. 325.

[R. S., Sec. 2436.] Special mortgage may be given by parent to whom property of minor is adjudicated in partition. R. C. C., Art. 344.

[R. S., Secs. 2437 to 2442.] General mortgage in favor of minors may be changed to special on recommendation of family meeting, etc. R. C. C., Arts. 326 to 333.

[R. S., Sec. 2443.] On partition in kind, mortgage attaches to portion allotted to one who has mortgaged his portion. R. C. C., Art. 1338.

[R. S., Sec., 2444.] Taxes for Drainage District shall operate as first mortgage, etc. Repealed by Act 30, 1871, Sec. 10, p. 78.

## **MORTGAGES TO TRUSTEES TO SECURE BONDS, ETC.**

**Act 72 of 1914, p. 189.**

### **TITLE.**

**AN ACT** authorizing conventional mortgages to fiduciary trustees to secure the payment of two or more notes, bonds or obligations.

### **WHO MAY GIVE, AND PURPOSE OF SUCH MORTGAGES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, A conventional mortgage may be given by any person or corporation to secure the payment of the principal and interest of two or more

bonds, notes, or other obligations of the mortgagor, or of any third person, and in such mortgage a trustee and fiduciary for the holders of the bonds, notes or other obligations secured therein may be named as mortgagee in trust for the benefit of the creditors and such fiduciary and trustee shall be irrevocably appointed special agent and representative of the holders of such bonds, notes or other obligations and vested with full power in their behalf to effect and enforce the mortgage for their benefit. The interest of the holders of the respective bonds, notes or other obligations secured by such mortgage in the mortgaged property shall be in common and indivisible, and in case of the enforcement of such mortgage by seizure and sale of the mortgaged property or otherwise, the holders of such bonds, notes or other obligations shall be entitled to participate pro rata in the proceeds of the mortgaged premises. Such conventional mortgage may, in case of default, be enforced by seizure and sale or otherwise, as the fiduciary and trustee shall deem expedient for the protection of the debt secured thereby, but such conventional mortgage may provide that in the event of a default, the fiduciary and trustee named therein shall not be obliged to proceed to sell the same, unless the holders of a portion of the mortgaged debts secured thereby, to be designated in such mortgages, which shall be not less than ten per cent. of the total outstanding indebtedness secured by such mortgage, and not more than fifty per cent thereof, shall request such fiduciary and trustee to effect and enforce the said mortgage against the mortgaged property and agree to indemnify such fiduciary and trustee against all costs and expenses incurred by it, and the mortgagor may restrict the right of the trustee or fiduciary to foreclose or sell in the event of default. The bonds, notes or obligations secured by such mortgage whether payable to the creditor or order or to bearer need not be parphased if the Act of Mortgage identifies such bonds, notes or obligations by date, number, amount and date when payable. Such conventional mortgage may also pledge incorporeal movables such as credits and other claims of that nature and provide for the deposit thereof with such fiduciary and trustee.

**LAWS RELATIVE TO SUBSTITUTIONS, ETC., DO NOT APPLY.**

Sec. 2. Be it further enacted, etc., That the provisions of the Revised Civil Code or other laws of this State relative to substitutions fidel commissa or trust dispositions shall not be deemed to apply to or in any manner affect conventional mortgages executed in conformity with the provisions of this Act and all laws and parts of laws in conflict with the provisions of this Act are repealed so far as regards the purpose of this Act, but not otherwise.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That this Act shall take effect immediately.

**MORTGAGE OF LONG TERM LEASES.****Act 21 of 1908, p. 21.****TITLE.**

AN ACT authorizing lessees who are obligated to make improvements to mortgage their lease, together with the buildings, constructions and improvements erected and to be erected by them, and to issue bonds secured by said mortgage.

Whereas, long-term leases under which the lessee undertakes, at his own cost and expense, to improve and build upon the ground leased, are becoming increasingly numerous in this State, and,

Whereas, the upbuilding of the State will be encouraged and promoted by facilitating the raising and borrowing of capital by those who undertake such building operations.

**AUTHORIZING THE MORTGAGING AND BONDING OF IMPROVEMENTS ON LEASED PROPERTY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for lessees, who by the terms of the lease, are obligated to erect buildings, constructions, and improvements upon the property leased, to mortgage the lease, together with the buildings, constructions and improvements, whether erected or to be erected, and, if they so desire to issue bonds secured by said mortgage, said bonds to be issued in such amounts, at such rate of interest, and to run for such length of time, not exceeding the term of the lease, as said lessees may determine. Provided, nothing in this Act, or said mortgage contained shall be held, or construed to in any manner affect, diminish, or destroy the lien and privilege of the lessor upon such buildings, constructions and improvements for the payment of the rent, and the enforcement of the other stipulations of the lease.

**REPEALING CLAUSE.**

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict with this Act are hereby repealed, and that this Act shall take effect from and after its passage.

**MACHINERY, ETC., HOW MADE IMMOVABLE FOR PURPOSES OF MORTGAGE.**

Act 30 of 1904, p. 37.

**TITLE.**

AN ACT to provide a means or method whereby the owner of real estate on whichc is located any manufacturing or industrial establishment, who is also the owner of the machinery and appliances used in such establishment, may cause such machinery and applicances to become immovable by destination and to form and constitute part and parcel of such real estate.

**MANNER IN WHICH MACHINERY AND APPLIANCES MAY BE MADE IMMOVABLE BY DESTINATION FOR PURPOSES OF MORTGAGE.**

Section 1. (As amended by Act 187, 1904, p. 419.) Be it enacted by the General Assembly of the State of Louisiana, That whenever the owner (whether a person, a partnership, or a corporation), of any real estate on which is located any manufacturing or industrial establishment, who is also the owner of the machinery and appliances used in such establishment, shall file in the offices of the Register of Conveyances and of the Recorder of Mortgages for the parish in which such real estate is situated, a declaration setting forth that such real estate and such machinery and appliances (referring to the same in general terms and not necessarily by detailed inventory) are to be considered and dealt with as a whole and that such machinery and appliances are to be considered as part and parcel of such real estate, then all such machinery and appliances and all renewals thereof and additions thereto shall be and become immovable by destination and shall form and constitute part and parcel of such real estate for purposes of mortgage and sale only.

**FACTORIES AND ESTABLISHMENTS INCLUDED IN ACT.**

Sec. 2. Be it further enacted, etc., That, in the foregoing section, the words or expression "manufacturing or industrial establishment" shall embrace and include any and all mills, factories, manufactoryes, chemical works, foundries, machine shops, repair shops, distilleries and establishments fo rprinting, or publishing, or bookbinding, or wood-working, or making, manufacturing or compounding any article or substance used in trade or commerce; and the words or expression "machinery and appliances" shall include and embrace, any and all boilers, engines, motors, shafting, wiring, fixtures, machines, presses, type, tools, rollers, filters, mixers retorts, devices, apparatus and appurtenances of every kind and character used in such establishments.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict with, or contrary to, or inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect from and after its promulgation.

*Notes.* This act has not the effect of repealing articles of the Code relating to immovables by destination—where the statute is not complied with the property—a cotton seed oil plant—was not mortgaged in its entirety, only those portions were mortgaged which were immovables by destination as under the Code; but if the statute is complied with, the entire plant becomes subject to the mortgage. *Bank of Lecompte vs. Lecompte Cotton oil Co. Ltd.*, 125 La. 844.

**MORTGAGE OF NEWSPAPER PLANT.**

**Act 254 of 1908, p. 374.**

**TITLE.**

**AN ACT** to authorize a person, firm or corporation engaged in the publication and circulation of a newspaper to issue bonds, notes or other evidences of debt and to secure same by mortgage and pledge of the plant, equipment, name and good will of the newspaper; and to provide for the recordation and enforcement of such mortgage and pledge.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any person, firm, or corporation that shall or may be engaged in the publication and circulation of a newspaper in this State shall have the right, power and authority to issue bonds, notes or other evidences of debt and to secure same by the mortgage and pledge of the plant and equipment of said newspaper and the name and good will of its business. And said mortgage and pledge shall have the same legal effects as have other mortgages and pledges under existing laws.

**Sec. 2.** Be it further enacted, etc., That said act of mortgage and pledge shall be made in the same form provided by existing laws for other acts of mortgage and pledge and shall be recorded in the mortgage office of the parish in which newspaper shall be published. The foreclosure and sale of the property so mortgaged and pledged shall be made and had as is now or may hereafter be provided by law for the foreclosure and sale of real estate mortgaged.

**Sec. 3.** Be it further enacted, etc., That this act shall go into effect immediately upon its promulgation.

**MORTGAGE OF RURAL REAL ESTATE.**

**Act 176 of 1914, p. 298.**

**TITLE.**

**AN ACT** to provide for the issuance of a first mortgage bond on rural properties in the State of Louisiana, to be known as the Rural Mortgage Bond. To provide for the method of their issuance, maturity and payment; to fix the rate of interest on said bond; to secure the same by mortgage and chattel mortgage upon property affected; to institute the Sheriff of the parish where the property is situated, the mortgagee and trustee for the bond and to act for the bondholders under certain restrictions; to provide for the making of certain trust companies co-trustees under certain specified provisions; to define the powers and duties of Sheriff and Clerks of Courts in the various parishes in relation to this kind of bond; to provide a method of procedure to enforce the conditions of the contract and bond without resort to the courts, and to provide for the collection of the principal and interest in a summary manner without foreclosure proceedings and to vest in the Sheriff certain authority and certain obligations to fulfill the conditions of the bond and mortgage contract; to provide that certain bonds issued under the conditions of this act shall be a bond enforceable only against the property itself without incurring personal responsibility by the party issuing bond, or by mortgagor; to provide penalties for the violation of the conditions of this act.

**RURAL MORTGAGE BOND.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every individual, association, firm or corporation owning rural real estate in the State of Louisiana, whether the same be improved or unimproved, shall have the special right to incur debt and issue negotiable bonds against his property without incurring any personal liability, and said bonds be secured by mortgage upon the property under the special terms and conditions set forth in this act, said mortgage bond to be known as the "Rural Mortgage Bond" of the State of Louisiana.

**MORTGAGE MUST BE PRECEDED BY INVENTORY.**

Sec. 2. Be it further enacted, that, whenever any owner of real estate desires to avail himself of the provisions of this act for the purpose of issuing a "Rural Mortgage Bond" against his property, he shall proceed to have made a complete inventory of all the property forming part of the real estate which it is proposed to mortgage, said inventory to be made by formal authentic act before any Notary Public or Clerk of Court, the appraisers under this act to be the cashier or cashiers of the banks located in the parish where the property is situated, and said appraisers to be three in number; one of whom shall be chosen by the mortgagor and two to be selected by the District Judge having jurisdiction. The said appraisers shall not be interested, directly or indirectly, in the property to be appraised or in the bonds to be issued. If there be not sufficient banks in the parish where the property is located to designate bank cashiers as appraisers, then the two appraisers are to be selected by the District Judge having jurisdiction over the property. The said inventory shall include the real estate to be mortgaged, and all of the movables which form part of the real estate for its proper operation, and the said inventory to show the valuation of the movables and the immovables separately. In the said inventory, the said movables shall be dedicated as immovables for the purpose of impressing the same with the conditions of the mortgage. The appraisers and notaries making the inventory and valuation of the property to be mortgaged shall specially designate a name which shall identify it throughout the entire procedure under the terms of this act. The appraisers shall be required to make a personal examination of the property appraised and each of them shall be sworn by the Clerk of the Court to fulfill conscientiously and truly to the best of his ability the duties imposed upon him. The services of said appraisers, as well as the Notaries or Clerk of Court taking the inventory shall be agreed upon and paid for by the mortgagor before the services are rendered.

**MORTGAGE IN FAVOR SHERIFF.**

Sec. 3. Be it further enacted, etc. That when the inventory and name designated provided for in the preceding section shall have been filed and recorded, the owner shall then proceed to issue by formal authentic act, serial, negotiable, interest-bearing coupon bonds against the property included in said inventory for an amount not greater than two-thirds of its appraised value, the said bond to run for a period not longer than twenty years, at a rate not greater than six per cent per annum, the said bonds to begin maturing at a period not greater than five years from their date.

The debt represented by said bonds to be a debt in rem against the property without any personal liability of mortgagor or person incurring. The form of bond issued to represent said debt shall provide that " \_\_\_\_\_ (designate name of the property fixed in the inventory) promises to pay to bearer, through the medium of the subscriber hereto, the sum of \_\_\_\_\_." The owner of the property executing this bond and mortgage shall for the account of the said property, specially confess judgment executory against the said property in favor of the future holders or owners of said bonds for the sum of the indebtedness incurred by the issuance of said bonds, and shall execute a special authority, in the event of his default of any of the conditions imposed by the obligation of the mortgage or bond, to the Sheriff of the parish in which the property is located, to seize and sell his equity in the said property at public auction to the highest bidder, after thirty days advertisement, without appraisement.

without foreclosure, without resort to any judicial proceedings whatever, without recourse or redemption. The mortgagor or property owner incurring the debt shall execute a mortgage on the real estate and a chattel mortgage upon the movables in the inventory filed, in favor of the Sheriff, as trustee for the account of the future holders or owners of said bonds, for the full amount thereof on all property recorded in the inventory heretofore provided for, provided that no such mortgage will be recorded by the ex-officio recorder of mortgages, unless the act of mortgage has attached thereto, first, specific authority to the Sheriff of the parish in which the property is located, executed in authentic form, to advertise and sell the equity of the mortgagor in said property without recourse, redemption, appraisement or resort to any judicial proceedings in the event of any default on his part: This authority to be and remain in full force and effect during the full term for which the rural mortgage bonds are issued and to remain in full force and effect even after the death of said mortgagor or his assignees without hindrance or interruption from successor, heirs or assigns. Second: a legal certificate showing that the property mortgaged is free from all encumbrances; third, a legal certificate of conveyance showing the property to be in the name of the mortgagor; fourth, a legal certificate showing that all taxes then due have been paid and cancelled; fifth, legal certificates from all clerks of record showing no judgments in the name of the mortgagor; sixth, an affidavit of the mortgagor that there are no outstanding liens or privileges of any kind against any of the property included in the inventory subject to the mortgage; seventh, the solemn oath of the mortgagor executed before a Notary Public or Clerk of Court reciting the issuance of the rural mortgage bonds against the property, designated by name set forth in the inventory, and his solemn promise on oath to administer the property as a careful and prudent administrator and not to remove the same during his tenure of the property, to the detriment of the mortgage or bond, but to give a full and complete accounting of the same as set forth in the act of mortgage. Upon said certificate, affidavit and oaths being sworn and attached to the act, the ex-officio Recorder of Mortgages will proceed to record the mortgage, securing the Rural Mortgage Bond above set forth, and he shall identify each bond with the act of mortgage by stamping and signing on the same "Ne Varietur" secured by act of mortgage, recorded in Mortgage ..... Folio ..... Parish of ..... State of Louisiana. .... Clerk of Court.

**WHEN MOVABLES MAY BE SOLD.**

Sec. 4. Be it further enacted, etc., That if it should be desirable to dispose of any of the movables for the proper and effective administration of the property mortgaged, the said movables may be sold for cash by the trustee and the proceeds of the sale, with the approval of the trustee in writing invested in like movables. Under the terms of act of mortgage there may be a special provision whereby the mortgagor shall furnish to the trustee an accounting of the revenue and disbursements of the property at stated periods or intervals, which accounting must be sworn to and kept on file by the Sheriff and trustee for future reference. The indebtedness and mortgage shall be indivisible as to the whole property affected and shall cover every portion of said property, it being intended thereby to make the property mortgaged stand the entire burden of responsibility and security for the indebtedness and rural mortgage bond, herein provided for. The death of the mortgagor or his assignees will have no effect whatever upon the mortgage, the bond or any of the conditions imposed by the act authorizing the same. The equity will be sold irrespective of the rights of heirs or successors without delay or hindrance.

The said bonds shall be serial, their maturity to begin at a period not greater than five years from their date to run for a period not longer than twenty years, and the basis of contribution for the payment of principal and interest of said bonds on the whole property shall be provided for in a complete schedule or table in the act of mortgage, in order that there may be, as nearly as possible, a fixed contribution collectible by the

Sheriff and trustees each year to fulfill the obligation of the contract; there shall also be provided in said act a system of charges against the property mortgaged which will provide sufficiently for the payment of taxes, insurance, Sheriff's charges, interest and principal, that each year will be collectible by the Sheriffs to fulfill the conditions of the contract.

**MORTGAGE IN FAVOR OF SHERIFF, HIS DUTIES.**

Sec. 5. Be it further enacted, etc., That every mortgage made to secure rural bonds under the terms of this act shall be made in favor of the Sheriff of the parish where the property is located; the said mortgage to be effective without reinscription for the entire period of time the bond it secures is to run; the said Sheriff to act as trustee for the said bond, and he is charged with the duty to collect the yearly sums set aside and provided for in the act of mortgage, to pay the interest and principal on said bonds. The sheriff is especially charged with the duty of collecting the said interest and that portion of the principal to be paid in, for account of said bond, on or before the first day of January of each year and immediately upon collection of same, to apply the proceeds of his collection to the cancellation of that part of the obligation due on the first day of January succeeding his collection of same. He is further specially charged with the duty in the event of any default, either in the payment of the principal or any part of the interest or in the payment of any taxes, insurance or in the fulfillment of any other obligations of the contract by which the bonds are to be met in principal and interest and their security to be maintained, to advertise for sale immediately upon the default, the equity of said owner in said property and to sell the same at public auction after thirty days advertisement, on or before the fifteenth day of February next succeeding the date of default; and he is specially charged with the duty to cancel each bond as it is paid, to make proces verbal of such cancellation and to record such proces verbal with the clerk of court of the parish or parishes where the property is located. The trust instituted by this act and the authority to the Sheriff or trustees must remain in full force and effect as long as any bonds issued under this act are outstanding.

**BOND OF SHERIFF IN FAVOR OF BOND HOLDER, ETC.**

Sec. 6. Be it further enacted, etc., That for the performance of his duties under this act, the Sheriff shall have a special bond, which shall be made payable in favor of the holder or owners of Rural Mortgage Bonds of ..... (describing the same and its date) and shall be in a sum equivalent to one-third more than the maximum sum of yearly collections under the term of the bond. The premium on which said bond shall be a proper charge against the property collectible by the Sheriff, the said bond to be a Surety Company Bond as fixed by law, and to be deposited with the Clerk of the Court for account of the holders or owners of the Rural Mortgage Bonds. The Sheriff shall also receive as compensation for services rendered in connection with the bond which he represents, a commission of one per cent on the monies collectible by him each year, representing 1-2 interest on the bonds one quarter of one per cent on the fractional portion of the principal passing through his hands. The said commission to be chargeable against the property and collected by the Sheriff as part of the charge made for the fulfillment of the obligation of the Rural Mortgage Bond.

**WHERE PROPERTY LOCATED IN DIFFERENT PARISHES.**

Sec. 7. Be it further enacted, etc., That in the event the Rural Mortgage Bond should be impressed upon property located in different parishes, an inventory shall be made, and every other proceeding leading up to a final issuance of the bond and shall be recorded, in the parishes where the property is located, but the bonds shall only be paraphed by the Clerk of the Court of the parish where a larger portion of the property is located, and in that event the Sheriff of each parish shall act as co-trustees for the bond. The Sheriff of the parish where a larger amount of property is located shall be the senior trustee, and make an account to the bondholders of the collections made. The contract of mortgage may provide for a trust

Company or Bank to be co-trustee with the Sheriff if so preferred by the parties in interest, the obligation of the co-trustees being co-ordinate. All expenses for the co-trustee to be provided for in an act of mortgage.

**PAYMENT OF PRINCIPAL AND INTEREST.**

Sec. 8. Be it further enacted, etc., That every rural mortgage bond issued under the terms of this act shall become due and exigible on the first day of January and the interest paying date shall be the first day of January and July if so stipulated in the act of mortgage of each year. In the event of failure to pay interest or principal, or in the event of the default of the payment of taxes, insurance premiums, Sheriff commissions and premiums on the Sheriff's bond, or of failure to pay any of the fixed charges provided for in the act, or in the event of any default of any of the obligations of the Rural Mortgage Bond under the terms of this act, under and by virtue of the authority vested in him, and by the terms of this act, the Sheriff shall advertise for thirty days the equity of the mortgagor in the property subject to the rural mortgage bond, and proceed to sell all of his right, title and interest in the said property on or before the fifteenth day of February next succeeding such date of default. He shall specify in his advertisement that he sells the equity of the said mortgagor subject to the purchaser's assumption of all the conditions of the Rural Mortgage Bond, issued under the terms of this act. The said mortgage and bond to continue as though the ownership of the property had remained unchanged. The Sheriff shall also provide in his advertisement that in the event that no purchaser is found for the equity of the mortgagor that he will adjudicate the property to the trustee for the account of the bondholders without further advertisement or proceedings. The Sheriff shall make a complete Proces Verbal of the sale and shall institute the purchaser in the place and stead of the mortgagor, give him possession of the property, and maintain him in his said possession undisturbed, as long as he fulfills the obligations of the Rural Mortgage Bond. The original mortgagor displaced by these proceedings will lose every interest he has in the property, will have no recourse against the same, or against the officials or trustees who have displaced him, and will have no right of redemption whatsoever. If, however, the equity sells for more than will satisfy the payment in default the Sheriff will account to the mortgagor, whose equity has been sold for the balance or overplus. Should the equity of the mortgagor or his assignee sell for more than the amount due and the charges fixed by the terms of this act, the Sheriff as trustee shall turn over to the mortgagor or his assignee any balance that may remain from the proceeds of sale.

**DISCRETION OF BONDHOLDERS.**

Sec. 9. Be it further enacted, etc., That in the event that there should be found no purchaser for the equity of the owner as set forth in preceding section, the Sheriff will announce that he proposes to adjudicate said property to the trustee for the account of the bondholders under the terms of the act of mortgage and bond, and should he do so he will make proces verbal to that effect, which proces verbal duly recorded will vest title in the said trustee for the account of the said bondholders. It shall then be the duty of the Sheriff to take the sense of the bondholders as to the disposition of the property, and if the majority in amount of the said bondholders authorizes him to sell the property, he shall proceed to dispose of same in accordance with the written instructions of the majority in amount of the bondholders for the account of all of the said bondholders. If the majority in amount of said bondholders should instruct him to administer the property, he shall administer the same under some specific arrangements to be entered into between himself and the said bondholders as above set forth.

**CONDITIONS OF MORTGAGE.**

Sec. 10. Be it further enacted, etc., That whenever the equity of any mortgagor shall have been adjudicated to any purchaser by the Sheriff, the said purchaser must conform to the conditions of the act of mortgage

and subscribe an oath equivalent to that made by the original mortgagor, and which oath shall be placed of record with the Clerk of the Court in the parish or parishes where the property is located.

**REGISTRY OF BONDS.**

Sec. 11. Be it further enacted, etc., That any purchaser of the rural mortgage bonds issued under the terms of this act shall have the right to have his bond or bonds registered in his name by presenting the same to the Clerk of the Court of the parish where the property, or larger portion thereof is located, and on the back of said bonds there shall be stamped in red ink by said clerk the following: "Registered in the name of..... or order, this ..... day of ..... 19.....

Clerk of Court. And he shall keep a book showing a description of bond and number of the issuance, maturity and registry, in whose name registry was made, and he shall be entitled to ten cents for each bond thus registered. The bond registered in the name of the owner or order shall be transferred by endorsement without any liability to the endorser, except a warranty of his title to the bond, and his assignee under that endorsement must in turn, if he so desires, present the bond for registry to himself, and cancel the original registry. The coupons on said bond thus registered shall always remain payable to bearer.

**NEW INVENTORY.**

Sec. 12. Be it further enacted, etc., That every purchaser of the equity of the mortgagor or his assigns shall have a right to make careful examinations of the inventory filed with the Clerk of Court of the property subject to the mortgage bond, and shall have the right to demand a new inventory to supplant the one on file. If he demands no new inventory, he shall be imputed to have accepted the inventory on file, on his acceptance of the ad-selling said farms to two or more persons, the act of mortgage judgment made to him by the Sheriff.

**DESCRIPTION OF CHATTELS.**

Sec. 13. Be it further enacted, etc., That whenever under the terms and conditions of this act, there shall be impressed movable property as immovables for the security of the Rural Mortgage Bond issued, a chattel mortgage upon the movables impressed shall describe and specify the property susceptible of definite identification, as though the chattels had not been made immovable. The chattels made the subject of such mortgage shall be effective against all of the movables made subject to it in the same manner and under the same conditions as though real estate were being mortgaged.

**DIVISION OF PROPERTY.**

Sec. 14. Be it further enacted, etc., That whenever under the conditions of this act it shall be found desirable for the mortgagor or any of his assigns to divide property made the subject of this mortgage into separate and smaller farms for the purpose of hereunder shall provide a plan whereby the property may be so divided into smaller units for sale, in which event it can be further provided in said act of mortgage, that the cash amount paid and the vendor's lien notes given for the purchase price, shall be deposited with the trustee of the Rural Mortgage Bond, the proceeds of which<sup>3</sup> sale and notes to be applied for the account of the said rural mortgage bond under such terms as may be fixed in the act of mortgage. In which event, there shall also be provided in said act of mortgage that the trustee shall deliver to the purchasers of the smaller units, a free, clear and unencumbered title to the unit thus purchased, releasing said unit from the effects of the Rural Mortgage Bond as against said unit by substitution of the cash and notes here above stipulated, provided, however, that under no circumstances shall the property be divided or sold into smaller units at a lesser price than that fixed by the inventory value, or under terms which will include less than one-third payment in cash.

**DIMINUTION OF SECURITY; RIGHTS OF BONDHOLDERS.**

Sec. 15. Be it further enacted, etc., That any mortgagor or his assignee or other persons under the terms of this act who shall sell or dispose of mortgaged property with the intent to defeat the terms and conditions of said mortgage, or with intent to diminish the security of the bonds secured by said mortgage, or who shall remove the property subject to the mortgage from the parish in which it was located, or from the property on which it was located (if the said property is situated in different parishes), or any one who shall remove same out of the said parish or parishes without the written consent of the trustees for the said mortgage, shall be deemed guilty of a misdemeanor under the terms of this act, and shall make himself personally liable to the holders or owners of the mortgage bonds to the extent of the value of the property removed and in addition shall be fined in the sum not exceeding two hundred and fifty dollars, or imprisoned not exceeding twelve months, or both, at the discretion of the court having jurisdiction. If any mortgagor of movable property or any other person shall injure, destroy, conceal, or part with, any of the property mortgaged under the terms of this act with intent to defraud, or with the intent to diminish the value of the security of the Rural Mortgage Bond, such person shall be deemed guilty of a violation of this act and shall be punished by fine or imprisonment or both as set forth in this section.

**PENALTY.**

Sec. 16. Be it further enacted, etc., That any person making oath or affidavit under the terms of this act found guilty of false swearing or of uttering falsely with intent to defraud, shall be deemed guilty of perjury and shall be subject to a fine to the extent of two hundred and fifty dollars and imprisonment not to exceed five years, or both at the discretion of the court of competent jurisdiction on conviction thereof.

**ACCESS TO PROPERTY.**

Sec. 17. Be it further enacted, etc., That the Sheriff, as trustee of the bondholders under the terms of this act, shall at all times have access to property mortgaged either personally, or by deputy, and shall be specially charged with the duty to preserve and protect the interest of the bond for which he stands trustee, and to take such proceedings legal or otherwise for the protection of the property subject to the mortgage.

**CANCELLATION OF BOND INSCRIPTION.**

Sec. 18. Be it further enacted, etc., That in the event of any owner or assignee of the owner of any property subject to the Rural Mortgage Bond fulfilling all his contractual conditions and obligations, paying the bonds complete, either at maturity or in advance of maturity by any special arrangements to be made with the holders or owners of the Rural Mortgage Bond, then, and in that event, the title to the property shall vest in fee to the said owner or his assigns, and the recorder of mortgages shall cancel and erase from the records of his office any of the obligations or conditions of the Rural Mortgage Bond and the inscriptions resulting therefrom on presentation of the bonds paid and cancelled.

**EFFECT OF ACT RESTRICTED.**

Sec. 19. Be it further enacted, etc., That this act shall in no wise effect the laws of the State of Louisiana on the subject of bonds or mortgages, but is intended to create a special form of rural mortgage bonds, conforming strictly to the requirements of this act, and the contracting parties in the issuance of the rural mortgage bond may make any covenant or contract, or require any additional security or collateral in the issuance of such bonds as may be deemed advisable without contravening the provisions of this act.

**MORTGAGE OF LIVE STOCK ON RURAL REAL ESTATE.****Act 169 of 1914, p. 287.****TITLE.****AN ACT** to regulate the mortgaging of Live Stock upon Rural Real Estate.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no mortgage upon Rural Real Estate shall cover, or affect the live-stock upon the said real estate, or that may thereafter be placed thereon, unless the said live-stock be specially mortgaged in the act of mortgage, in which case the animals so hypothecated shall be described as near as may be, by kind, age color, marks, brand and such other indicia by which live stock is identified.

Sec. 2. That the exemptions in the case of live stock mortgaged upon Rural Real Estate shall be the same as set forth in Act No. 65 of 1912.

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict with this act, be and they are hereby repealed.

**RECORDING OF MORTGAGES LIQUIDATED ON AMORTIZATION PLAN.****Act 23 of 1917 (E. S.), p. 33.****TITLE.****AN ACT** to provide for the recordation of conventional mortgages which are liquidated upon the amortization plan.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all cases where a conventional mortgage is given to secure a loan made upon farming property, where such loan is liquidated under the amortization plan, such mortgage so given, need not be re-inscribed prior to the maturity of the debt to continue in force.

Sec. 2. Be it further enacted, etc., That the Clerks and Ex-Officio Recorders of the several parishes of the State shall keep a separate Mortgage record or book, with proper indices, in which shall be recorded all conventional mortgages, where the loan is liquidated under the amortization plan.

Sec. 3. Be it further enacted, etc., That all laws contrary to the provisions of this act be repealed.

**CHATTEL MORTGAGES.****Act 198 of 1918, p. 372.****TITLE.**

**AN ACT** to grant the right to mortgage movable property; to provide the method of executing, recording, foreclosure and enforcement of such right of mortgage; to provide for the regulation and effect of such right of mortgage; to provide penalties for the fraudulent disposition or concealment of property mortgaged under this Act; to provide penalties for the fraudulent release of a mortgage arising under this Act; to provide for the obtaining of an affidavit by a resident of any parish from a non-resident of such parish in connection with the purchase of the movable property which may be mortgaged under this Act; to provide penalties for the violation by the mortgagor and other persons of the provisions of such mortgages and of this Act and penalties for frauds in connection therewith; to provide for the repeal of laws in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana that from and after the passage of this Act it shall be lawful to mortgage lumber, logs, staves, crossties, bricks, live stock, all kinds of vehicles and the equipment, accessories and parts thereunto belonging, all

kinds of machinery, oil well casing, line pipes, drilling rigs, tanks, tank cars, iron and steel safes, adding machines, cash registers, musical instruments, store fixtures and shelving, buildings on leased ground, farming implements, tractors, slips, barges, dry docks or any kind of water crafts or materials to be used in the construction thereof and, all other movable property not specifically named herein, for debts or for money loaned or to secure future advances, or to guarantee the performance of any other contractual obligations, by complying wth the provisions of this Act.

**DESCRIPTION OF PROPERTY MORTGAGED.**

Sec. 2. Be it further enacted, etc., That every such mortgage of property mentioned in Section 1 shall be in writing, setting out a full description of said property to be mortgaged, so that the same may be identified and also stating definitely the time when the obligation shall mature. In order to affect third persons without notice, said instrument must be passed by Notarial Act and the original or a certified copy thereof shall be recorded in the office of the Recorder of Mortgages in the Parish where the property shall be then situated, and also in the Parish in which the mortgagor is a resident .

**INSTRUMENT TO BE RECORDED.**

Sec. 3. Be it further enacted, etc., that upon the receipt of such instrument, the Recorder shall note thereon the date, hour and minute of receiving same; and he shall record it in his office. It shall be further the duty of the Recorder to cause to be endorsed on the said instrument his certificate of recordation. For these services, he shall receive fifty cents.

**RANK OF PRIVILEGE.**

Sec. 4. Be it further enacted, etc.,That every mortgage shall be a lien on the mortgaged property from the time the same is filed for recordation which filing shall be notice to all persons of the existence of such mortgage, and said lien shall be superior in rank to any privilege or lien arising subsequently thereto.

**REMOVAL OF MORTGAGED PROPERTY.**

Sec. 5. Be it further enacted, etc., That the mortgagor shall not move said property from the parish where said mortgage is given, without the written consent of the mortgagee, designating the parish or parishes to which same may be taken and to preserve such mortgage against third persons in such cases; it shall be the duty of the mortgagor to have a copy thereof recorded in the parish or parishes to which said removal is permitted. It shall be unlawful for a resident of any parish to purchase the movable property described in Section 1 from any non-resident of such parish, without first obtaining an affidavit from the non-resident that there is no mortgage on the property, nor no money due for the purchase price thereof, and the purchaser who shall buy the above referred to movable property, without having obtained the said affidavit shall be liable to the mortgagee for the amount due on the property.

**CHATTEL MORTGAGE BOOK.**

Sec. 6. Be it further enacted, etc., That for the purpose of this act, it shall be sufficient for the recorder of each parish to keep a book to be known as the Chattel Mortgage Book, which shall be ruled off into columns with headings as follows:

"Time of filing for Recordation", "Name of Mortgagor," "Name of Mortgagee," "Date of Instrument," "Amount Secured," "When Due," "Property Mortgaged," "Remarks."

Under the head of "Property Mortgaged" it shall be sufficient to enter a general description of the property and the parties.

In the event that the mortgage instrument also includes an act of sale whereby the vendor reserves a vendor's lien, it shall be the duty of the recorder to so segregate the mortgage from the vendor's lien so as to record the instrument merely as a mortgage for which he shall made no addi-

tional charge unless the vendor shall wish to have his vendor's lien also recorded, in which event the recorder shall make the charge now fixed by law.

An Index to the Chattel Mortgage Book shall be kept in the same manner as required for other records.

#### **CANCELLATION OF MORTGAGE.**

Sec. 7. Be it further enacted, etc., That when any mortgage under this act shall have been fully paid off or satisfied, it shall be the duty of the mortgagor or beneficiary, his assignee or personal representative or any holder or owner of any notes that may be secured by such mortgage, may enter satisfaction, or cause satisfaction thereof to be entered of record, under the head of "Remarks" provided, however, that mortgages enacted under this act, may also be cancelled and released in the manner now provided for the cancellation of mortgages and immovable property the said Recorder shall receive for the cancellation of mortgages under this act the sum of twenty-five cents.

#### **SALE, CONCEALMENT, ETC., OF PROPERTY, PENALTY.**

Sec. 8. Be it further enacted, etc., That any owner or other person, who shall sell or dispose of mortgaged property under this Act with fraudulent intent to defeat said mortgage or shall remove same from where so mortgaged to another parish without complying with the provisions of this Act or shall remove same out of said parish without the written consent of said mortgagee, shall be deemed guilty of a misdemeanor and on conviction shall be fined in a sum not exceeding five hundred dollars or be imprisoned not exceeding twelve months or both at the discretion of the Court. If any mortgagor of movable property or any other person shall injure, destroy, or conceal any mortgaged property, or part thereof, with intent to defraud the mortgagee, his executor, administrator, personal representative or assigns, he shall be deemed guilty of a violation of this Act and upon conviction thereof be punished in the manner above provided. If any mortgagee, named in a chattel mortgage, not being at the time the owner and holder of the deed secured, shall execute a release or satisfaction of said chattel mortgage, he shall be deemed guilty of a violation of this Act and upon conviction he shall be punished as above provided. If any person shall give, or attempt to give, a mortgage on the movable property described in Section 1, hereof without being the lawful owner or without having the proper authority to represent the lawful owner of the above referred to property, or if any person shall give a mortgage under this act, without fully disclosing and causing to be written into the act of mortgage the description and amount of any existing liens, privileges or encumbrances of the property mortgaged, he shall be deemed guilty of a violation of this act and upon conviction he shall be punished as above provided, and in case the mortgagor shall be guilty of any of the fraudulent practices denounced by this section, the mortgage shall forthwith mature and become due and payable, and the mortgagee shall be entitled to enforce the collection of the debt secured by the mortgage immediately in the manner hereinafter provided.

#### **UNCONSTITUTIONALITY OF ONE NOT TO AFFECT OTHER PROVISIONS.**

Sec. 10. Be it further enacted, etc., That if there should be any provisions of this act that should be deemed by the Judicial Department of the Government to be unconstitutional, the other provisions of the act not unconstitutional shall remain in full force and effect.

Sec. 11. Be it further enacted, etc., That nothing in the provisions of this Act shall in any way affect the validity of or the method of procedure in enforcing chattel mortgages executed prior to the passage of this Act.

#### **REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed and especially Act No. 18 of the Ex-

traordinary Session of the General Assembly for the year 1915, Act 155 of 1914 Act 65 of 1912, and Act 161 of 1916, provided no offense heretofore committed against the laws so repealed, shall be condoned by this repeal, or the prosecution thereof in any wise abated or affected.

Note. Act 160, 1914—To Regulate the Mortgage of Live Stock and Rural Real Estate, printed at p. 1226.

## EFFECT OF JUDGMENTS OF UNITED STATES COURTS.

**Act 133 of 1916, p. 320.**

### TITLE.

**AN ACT** regarding the effect of judgments rendered or to be rendered by the United States Courts sitting in Louisiana when recorded in the mortgage office for the Parish of Orleans and in the mortgage books of the offices of the Clerks of the District Courts in other parts of the State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all judgments heretofore rendered by the United States District Courts or the late United States Circuit Courts sitting in Louisiana or that may be hereafter rendered by the United States District Courts or any other Court having original jurisdiction that may hereafter be established by the Congress of the United States shall when recorded in the Mortgage Office for the Parish of Orleans or in the mortgage books in the offices of the clerks of the District Courts in other parts of the State from and after the date of said record be entitled to rank as judicial mortgages against all the property of the judgment debtor to the same extent and to the same effect as is given by the laws of this State now or that may be hereafter enacted in reference to judgments rendered by the Courts of the State.

**Sec. 2.** Be it further enacted, etc., That the same fees allowed by law for the recordation of State judgments shall apply to judgments of the United States Courts, and this act shall take effect from and after its passage.

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## MOTOR VEHICLES.

### REGISTRATION OF MOTOR VEHICLES.

**Act 260 of 1914, p. 498.**

#### TITLE. (As amended by Act 236, 1918.)

**AN ACT** to provide additional revenues for the Highway Department of the State; to register and license Motor vehicles in this State; providing for the disposition of the funds resulting from such registry and licenses; defining Motor vehicles and providing penalties for the violation of this Act.

#### WHAT IS A MOTOR VEHICLE.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, two-thirds of all the members elected to each house concurring:

That a motor vehicle is defined to be any vehicle operated by any power other than muscular power, and designed and intended for use on public highways, roads and streets. Motor vehicles are classified into three subdivisions. Any motor vehicle used exclusively in commerce for the carrying or transporting of merchandise on the public highways, roads and

streets is classified as a motor truck. Any motor vehicle containing only two running wheels arranged tandem, is classified as a motorcycle. All other motor vehicles are classified as motor cars.

**REGISTRATION WITH SECRETARY OF STATE.**

Sec. 2. Be it further enacted, etc., that every owner of a motor vehicle which shall be operated or driven upon public highways of this State, shall, except as herein otherwise expressly provided, cause to be filed by mail or otherwise in the office of the Secretary of State an application for registration on a blank to be furnished by the Secretary of State for that purpose, containing (a) a brief description of the motor vehicle to be registered, including the name of the manufacturer and factory number of such vehicle, the character and amount of the motive power, stated in figures of horsepower, given where practical, in accordance with the rating established by the Association of Licensed Automobile Manufacturers; (b) the name, residence, including parish and business address of the owner of such motor vehicle; (c) provided, that if such motor vehicle is to be used solely for commercial purposes the applicant shall so certify.

**SECRETARY OF STATE TO REGISTER.**

Sec. 3. Be it further enacted, etc., Upon the receipt of an application for registration of a motor vehicle as provided in Section 2, the Secretary of State shall file such application in his office and register such motor vehicle or vehicles, with the name, residence and business address of the owner, manufacturer or dealer, as the case may be together with the facts stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such motor vehicle by the Secretary of State, which book or index shall be open to public inspection during reasonable business hours.

**CERTIFICATE OF REGISTRATION; PLATE NUMBER, ETC.**

Sec. 4. Be it further enacted, etc., Upon the filing of such application and the payment of the license hereinafter provided, the Secretary of State shall assign to such motor vehicle a distinctive number and, without further expense to the applicant, issue and deliver to the owner a certificate of registration, and two number plates. Such number plates shall be of distinctly different color each year, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon.

Such number plate shall be of metal, at least six inches wide and not less than fifteen inches in length, on which there shall be the abbreviation "La." and there shall be the distinctive number assigned to the vehicle set forth in numerals four inches long, each stroke of which shall be at least five-eighths of an inch in width; provided, that in the case of a motor vehicle registered by a manufacturer or dealer there shall be on such plate in addition to the foregoing the letter "M," each stroke of such letter to be at least four inches long and five-eighths of an inch in width. No vehicle shall display the number of plates of more than one State at any time. In the event of the loss, mutilation or destruction of any certificate of registration, or number plate, the owner of a registered motor vehicle or manufacturer, or dealer, as the case may be, may obtain from the Secretary of State, upon an affidavit showing such fact and the payment of a fee of one dollar, two new number plates, and thereupon the original license plates shall become void and any person found using same shall be subject to the penalties imposed by Section 14.

All certificates of registration shall begin on their respective dates, and shall expire on the 31st day of December following. A new registration must be had each year, and the license fee therefor paid annually; provided that persons holding a certificate for one year shall not become delinquent for failure to register, or pay the annual license fee until the first day of February of the following year.

**ANNUAL LICENSE FEE.**

Sec. 5. Be it further enacted, etc., There shall be an annual license fee, which shall be divided into classifications known as a whole license fee, and a half license fee. The whole license fee shall apply to all registrations made under the provisions of this act, prior to the first day of August, of each year; and the half license fee shall apply to all registrations under the provisions of this act made on or after the first day of August, of each year. All license fees except as hereinafter provided shall be based on horsepower of motor, and shall be computed according to the following standard, to-wit:

**D 2 X N**

2.5

D is the cylinder bore in inches; N the number of cylinders. The license fee shall be twenty-five cents for each horsepower; provided that the minimum whole license fee shall be Five Dollars. All motor cars shall be subject to this license. Motorcycles shall pay a flat rate license fee of Two Dollars per annum. Motor trucks shall pay a flat license fee of Seven Dollars and Fifty Cents per annum. The one-half license shall apply to all motor vehicles and shall be half of the license rate herein provided for a whole license for each classification. Persons, firms and corporations, manufacturing or dealing in motor vehicles shall pay the license fee of one motor vehicle, on the maximum horsepower of each special make of motor vehicles handled, provided that dealers handling both new and secondhand motor vehicles shall pay the license on new makes only. Persons, firms or corporations dealing in or handling secondhand motor vehicles exclusively shall pay a flat license fee of Ten Dollars per annum.

**NOTICE OF SALE OR TRANSFER.**

Sec. 6. Be it further enacted, etc., That upon the sale or transfer of a motor vehicle registered in accordance with this act, the vendor shall immediately file notice thereof with the name and residence of the vendee to the Secretary of State, and the vendee shall within ten days after the date of such sale or transfer, upon a blank to be furnish him for that purpose, make application for a change of registration, which shall, with a fee of One Dollar, be forwarded to the Secretary of State, who shall note upon the registration book or index such change of ownership.

**DEALER'S NUMBER MAY BE USED.**

Sec. 7. Be it further enacted, etc., Upon the sale of a motor vehicle by the manufacturer or dealer, the vendee shall be allowed to operate same upon the public highways for a period of fifteen days after taking possession thereof, or until he shall have received his certificate of registration and number plates from the Secretary of State, providing that during such period the motor vehicle shall have attached thereto, in accordance with the provisions hereof, a placard bearing the registration number of the dealer under which it might previously have been operated; and provided, further, that application for registration shall be made by mail or otherwise before such vehicle shall be so used.

**REGISTRATION BY DEALERS, ETC.**

Sec. 8. Be it further enacted, etc., That every person, firm, association or corporation manufacturing or dealing in motor vehicles may instead of registering each motor vehicle so manufactured or dealt in, make an application upon a blank to be furnished by the Secretary of State for a general distinctive number for all motor vehicles owned and controlled by such manufacturer or dealer, such application to contain; (a) a brief description of each style or type of motor vehicle manufactured or dealt in by such manufacturer or dealer, including the character of the motor power, the amount of such motor power stated in figures of horsepower in accordance with the rating established by this act; (b) the name, residence, including parish and business address, of such manufacturer or dealer. On the payment of the registration fee provided in Section 5, such application shall

be filed and registered in the office of the Secretary of State in the manner provided in Section 3 of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a certificate of registration, and a number plate with a number corresponding to the number of such certificate of registration. Such number plate or duplicate thereof shall be displayed by every motor vehicle of such manufacturer or dealer when the same is operated or driven on the public highways. Such manufacturer or dealer may obtain as many duplicates of such number plate as may be desired upon payment to the Secretary of State of One Dollar for each duplicate. Nothing in this article shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire.

**SECTIONS NOT APPLICABLE TO NON-RESIDENTS.**

Sec. 9. Be it further enacted, etc., The provisions of the foregoing sections relative to registration and display of registration numbers, shall not apply to a motor vehicle owned by a non-resident of this State; provided, that the owner thereof shall have complied with the provisions of the law of the foreign country, State, Territory or Federal district of his residence relative to registration of motor vehicles and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby. The provisions of this section, however shall be operative as to a motor vehicle owned by a non-resident of this State only to the extent that under the laws of foreign country, State, or territory, or Federal district of his residence like exemptions and privileges are granted to motor vehicles duly registered under the laws of and owned by residents of this State.

**EXEMPTIONS.**

Sec. 10. Be it further enacted, etc., All track engines, road rollers, fire wagons, fire engines, police patrols, ambulances, as well as all other motor vehicles used exclusively for public purposes by the United States Government, the State, or any of the subdivisions thereof, including the parishes, cities, towns and villages; as well as all public boards of the State, district, parochial or municipal, are excluded from the provisions of this act.

**DISPOSAL OF COLLECTIONS.**

Sec. 11. (As amended by Act 236, 1918). Be it further enacted, etc., That from and after the first day of January, 1919, all funds collected by the Secretary of State under the provisions of this Act from the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, shall as soon after collection as practicable, be deposited with the State Treasurer for the account of the Highway Department of the State of Louisiana, and shall be paid into "State Highway Fund No. 2, Chef Menteur and Hammond-New Orleans State Highways" which said last mentioned fund is a special fund set apart and dedicated for the purpose of paying any and all contracts heretofore made or hereafter to be made, and any and all bonds, notes or evidence of indebtedness made or issued by the State Highway Department to provide moneys for the cost of constructing the following State highways:

First, The Chef Menteur Road commencing at Peoples Avenue in the Parish of Orleans and extending to a place in the Parish of St. Tammany at the boundary line between the State of Louisiana and Mississippi opposite or nearly opposite to Logtown, in the State of Mississippi, which said Road has already been begun and has been designated as a State highway by the Highway Department of the State of Louisiana; and

Second, For the construction of model State Highway determined upon and laid out by the Highway Department of the State of Louisiana, to extend approximately parallel to the Illinois Central Railroad from Hammond into New Orleans, and on such route as the Highway Department of the State of Louisiana has designated or may deem wise to designate, and in the construction of the necessary bridges upon said respective highways; provided that in the construction of the said Hammond-New Orleans High-

way no natural drain shall in any way be in the least manner obstructed, and provided further that said Hammond-New Orleans Highway shall be provided with culverts or other engineering outlets capable of passing the same volume of water as is now passed or in the future shall be passed by the culverts of other engineering outlets in the roadbed of the Illinois Central Railroad parallel to said Hammond-New Orleans Highway.

When the said Chef Menteur Road and the said Hammond-New Orleans Road shall have been fully constructed, and all obligations incurred for the construction of the same shall have been fully paid, principal and interest, said motor vehicle licenses shall revert to the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa, St. Tammany and Orleans, in the manner provided for in Act No. 260 of the General Assembly of the State of Louisiana for the year 1914. And for all the other Parishes of the State except those hereabove named, the Secretary of State shall deposit all funds collected under the provisions of this act as soon after collection as practicable in one of the banks of the State previously selected for that year, as one of the State bank depositaries, in a special fund which shall bear interest at the same rate as other deposits; and on or before the fifteenth day of the month of February and August of each year, the Secretary of State shall transmit to the Parish Treasurer of each Parish, except as above provided, with a sworn account thereof, all of the funds collected under the provisions of this act, from persons, firms, or corporations residing in the respective parishes throughout the State, deducting therefrom only the amounts expended by him in accordance with the provisions of Section 12. The clerks of the District Courts throughout the State except for the parishes hereabove provided, shall within ten days after the collection hereof transmit to the Parish Treasurer all fines and penalties collected for any violation of any State law relating to motor vehicles, and shall annually between the first and fifteenth day of January of each year, file with the Parish Treasurer a sworn statement showing in detail the amounts and sources from whence said funds were collected. The clerks of the First and Second City Criminal Courts of the City of New Orleans, and the clerks of Courts of the Parishes of Jefferson, St. Charles, St. John the Baptist, Tangipahoa and St. Tammany shall, within ten days after the collection thereof transmit to the Treasurer of the State of Louisiana all fines and penalties collected for any violation of the provisions of any State law relating to motor vehicles, and shall annually between the first and fifteenth day of January of each year file with the Treasurer of the State of Louisiana a sworn statement showing in detail the amounts and sources from whence said funds were collected. All funds deposited with the respective Parish Treasurers shall be special highway funds of the Parish, and shall be withdrawn from the Parish Treasury by the Police Jury of each parish only for the purpose of constructing, maintaining or operation of public roads, highways or bridges, or for the purpose of paying interest on bonds issued solely for said purpose.

**BOND OF SECRETARY OF STATE.**

Sec. 12. (As amended by Act 241, 1918.) Be it further enacted, etc., That the Secretary of State shall give bond in such sum as may be fixed by the Governor of the State of Louisiana, with a surety company authorized to do business in the State of Louisiana, as surety thereon, and shall be entitled to charge the cost thereof, which shall not exceed one-fourth of one per cent, and to charge same against the license fees collected.

The bond shall be made in favor of the State of Louisiana for faithful performance by the Secretary of State of his duties under this act, and the prompt delivery to the proper parties of the funds under his control; and shall enure to the benefit of the respective parishes and the City of New Orleans, as its interest might appear.

He shall appoint a chief clerk and such additional clerks as may be necessary to properly carry on the business of the department.

The office expenses shall not exceed twelve thousand dollars (\$12,000), to be deducted from the returns made to the Parish Treasurers and Commissioner of Finance of the City of New Orleans, pro rata. The expenses for

supplies, including license plates, stationery and postage, shall be paid by the Secretary of State and deducted from the returns made to the Parish Treasurers and Commissioner of Finance of the City of New Orleans.

#### **HIGHWAY FUND REIMBURSED; WHEN.**

Sec. 13. Be it further enacted, etc., That whenever any portion of the Highway Fund of the City of New Orleans created by the provisions of this act shall be used for the construction of roads, bridges, viaducts, or aqueducts in accordance with this act, or for the payment of interest on bonds or public improvements certificates as herein provided, the City of New Orleans shall be obligated whenever it grants any franchise to any person, firm, association or corporation for the use of said road, bridge, aqueduct or viaduct, to make provisions under the grant of said franchise for the reimbursement to the Highway Fund of the City of New Orleans, of any amount reasonably commensurate with the extent of the franchise granted, and the extent to which said road, bridge, viaduct or aqueduct is utilized under said franchise.

#### **PENALTY.**

Sec. 14. Be it further enacted, etc., That any person failing to register his motor vehicle, or to pay his license tax as herein provided, within the time fixed by the provisions of this act; or any person otherwise violating any of the provisions hereof; or any person making a wilful false statement in relation to any matter or thing required to be done under the provisions of this act, shall be guilty of a misdemeanor, and upon convictions thereof shall be punished by a fine of not less than Five Dollars, nor more than Twenty-five Dollars; or by imprisonment in the parish jail, for not more than thirty days, or both, in the discretion of the Court.

#### **TO TAKE EFFECT JANUARY 1, 1915.**

Sec. 15. Be it further enacted, etc., That this act shall go into effect and become operative on the first day of January, 1915, if ratified and approved by the electors of the State, as provided in Sections 16 and 17 of this act, and it is the intention of this act that the ratification and approval by the electors of the State shall legalize and render valid all of the provisions hereof, reserving to the General Assembly complete authority to amend this act in any respect whatever.

#### **REPEALING CLAUSE.**

Sec. 16. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

#### **QUESTION TO BE SUBMITTED.**

Sec. 17. Be it further enacted, etc., That at the General Election to be held in this State on the first Tuesday, after the first Monday of the month of November, 1914, there shall be submitted to the electors of the State, the following amendment to the Constitution, to-wit:

"The General Assembly shall provide for the registration of automobiles and motor vehicles and provide a license tax for the use thereof. And all provisions of the Constitution in conflict herewith are to this extent repealed, and Act ..... of 1914, entitled 'An Act to Define Motor Vehicles,' etc., is ratified and approved."

#### **OFFICIAL BALLOT.**

Sec. 18. Be it further enacted, etc., That on the official ballot to be used in said election, shall be placed the words, "For the Amendment Licensing Automobiles" and the words "Against the Amendment Licensing Automobiles," and each elector shall indicate his vote on the proposed amendment as provided for by the General Assembly laws of this State.

Note. At the election in November the amendment to the Constitution mentioned in Sec. 17 was adopted.

Note. See title "Highway Department."

This does not and was never intended to confer on the City of Shreveport or any other municipality, the extraordinary power of license taxation for the purpose of creating a special fund to build and maintain streets, etc. City of Shreveport vs. Stringfellow, 137 La. 552.

**SERVICE CARS—PUBLIC HIGHWAYS.**

**Act 196 of 1918, p. 369.**

**TITLE.**

**AN ACT** relative to the use and operation of Service Cars on the public highways of the State of Louisiana and defining the terms "Service Cars" and "Public Highways" as used in this Act; prescribing the qualifications of all operators of service cars; requiring the words "Service Cars" displayed prominently on such cars; prohibiting the overloading of such cars, and requiring bonds of the owners thereof; providing further for the use of speedometers on such cars, and making the operation of such cars beyond the limit of speed prescribed by law prima facie evidence of negligence under certain circumstances; and prescribing penalties for the violation of this Act.

**DEFINITION OF SERVICE CAR.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That a service car within the meaning of this Act, is defined to be a motor or power-driven vehicle or conveyance that is operated upon the public highways of the State, and which carries passengers or freight for hire or for a consideration. Public highways of the State, as herein referred to, shall mean roads over which service cars are operated within the State and outside of the incorporated villages, towns and cities of the State.

**CERTIFICATE FOR OPERATOR.**

Sec. 2. Be it further enacted, etc., That operators of service cars must procure from the police jury of the parish in which they reside, certificates as to their ability and skill to operate service cars. They must also show their physical fitness and proper eyesight and hearing by a sworn certificate of a reputable physician, which certificates shall accompany the application for permit.

**PERMITS.**

Sec. 3. Be it further enacted, etc., That when any applicant for a service car permit has complied with the provisions of this Act, the clerk of the Police Jury of the parish in which he resides, shall issue to him a permit or certificate which will be his authority to operate a service car.

**NUMBER OF PASSENGERS.**

Sec. 4. Be it further enacted, etc., That it shall be unlawful for the owner or operator of any service car designed for five adult persons to carry more than four adult passengers beside the operator, and any service car designed for seven adult persons shall not carry more than six adult passengers besides the operator; and in no case shall any service car carry more passengers than the car is designed to seat comfortably.

**INDEMNITY BONDS.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any owner of a service car to have same operated as a service car without first having procured an indemnity bond with good and solvent surety residing in the parish where such service car owner resides, or a surety company licensed to do business in this State, with the obligation running in favor of any person who may be injured in person or property by the negligence of the operator of the service car. The amount of such surety bond required of the owner of service cars shall not be less than two thousand dollars (\$2,000.00) and an additional sum of five hundred dollars (\$500.00) for each passenger over four in number. The calculation of the amount of the bond to be based upon the carrying capacity of the service car as shown by the sworn application for license filed with the clerk of the police jury. Said bond shall be drawn in favor of the clerk of the court but shall inure to the benefit of anyone in interest who shall have a right of action thereon in his own name. Said bond shall be recorded in the office of the Recorder of Mortgages.

**SPEEDOMETER.**

Sec. 6. Be it further enacted, etc., That every service car shall be supplied and equipped with a speedometer in open view, and when any service car is being driven at a speed in excess of that allowed by law, and an accident or a mishap occurs which results in the death of, or injury to any passenger, the fact that such service car was being driven at such unlawful speed shall be *prima facie* evidence that the accident or mishap was occasioned by or resulted through the negligence of the operator of such service cars.

**PENALTIES.**

Sec. 7. Be it further enacted, etc., That any person violating any of the provisions of this Act, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars (\$100.00) or by imprisonment, not exceeding ninety (90) days, or both, in the discretion of the court.

**MARKING CARS.**

Sec. 8. Be it further enacted, etc., That there shall be displayed on the wind shield in plain view the words "Service Car" on all such motor-driven vehicles coming under the provisions of this Act.

**REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

**REGISTRATION OF MOTOR VEHICLES.**

Act 200 of 1916, p. 454.

**TITLE.**

AN ACT to provide for the registration of motor vehicles, the form of application for such registration and the duty of the Secretary of State in reference thereto.

**APPLICATION FOR REGISTRATION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every owner of a motor vehicle which shall be operated or driven upon a public highway of this State, shall cause to be filed by mail or otherwise in the office of the Secretary of State an application, made in duplicate and each of said duplicates duly sworn to, for the registration of such motor vehicles, said application to be made upon blanks to be furnished by the Secretary of State for that purpose and such applications, as a condition precedent to their being acted upon, to contain (a) brief description of the motor vehicle to be registered, including the name of the manufacturer and factory number of such vehicle, the character and amount of the motive power, stated in figures of horsepower given where practical in accordance with the ratings established by the Association of Licensed Automobile Manufacturers, and whether said vehicle is new or second-hand; (b) the name of the party or company from whom said vehicle has been purchased, the price paid therefor and the time of such purchase; (c) the name, residence, including parish and business address, of the owner of such motor vehicle and where the same is kept when same is not in use, or during rest hours; (d) the use for which such motor vehicle is to be devoted, whether commercial or otherwise.

**REGISTRY OF MOTOR VEHICLE.**

Sec. 2. Be it further enacted, etc., That upon receipt of the application for registration of a motor vehicle, as provided in Section 1, the Secretary of State shall file such application in his office and register such motor vehicle with the name, residence and business address of the owner, manufacturer or dealer, as the case may be, together with the facts stated in such application, in a book or index to be kept for that purpose, under the

distinctive number assigned to such motor vehicle by the Secretary of State, which book or index shall be open to public inspection during reasonable business hours. It shall also be the mandatory duty of the Secretary of State, immediately upon registering such motor vehicle, to transmit to the Assessor of the parish where the owner of such motor vehicle resides one of the duplicate applications, sworn to by the applicant, called for by Section 1 of this act.

**MOTORS TO WHICH ACT DOES NOT APPLY.**

Sec. 3. Be it further enacted, etc., That this act shall not apply to those motor vehicles exempt from such registration under the provisions of Act No. 260 of 1914, and that all laws or parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

**TAKING AND USING AUTOMOBILE OF ANOTHER.**

**Act 168 of 1914, p. 287.**

**TITLE.**

AN ACT to make it unlawful and a misdemeanor for any person to take and use an automobile without the consent of the owner.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful and a misdemeanor for any person, whether an employee of the owner of the automobile or not, to take from any garage, public or private, or from the street where said automobile is standing, any automobile belonging to another and use same without the consent of the owner of said automobile.

Sec. 2. Be it further enacted, etc., That any person guilty of such unlawful act or offense shall be guilty of a misdemeanor, and shall be punished by a fine of one hundred dollars (\$100) or imprisonment in the Parish prison for six months, or both, at the discretion of the judge of any Court of competent jurisdiction.

**NEGLIGENCE IN OPERATION OF AUTOMOBILES.**

**Act 237 of 1914, p. 467.**

**TITLE.**

AN ACT to punish gross negligence and recklessness on the part of any person or persons operating, or aiding or assisting in operating, or encouraging the one operating to gross negligence and recklessness, in operating any motor vehicle, whereby any person is injured through such gross negligence and recklessness, and death does not result from such injury.

Section 1. Be it enacted by the General Assembly of the State of Louisiana that if any person or persons use gross negligence and recklessness, and all persons aiding or assisting, or encouraging such gross negligence and recklessness, while operating any motor vehicle, shall, through such gross negligence and recklessness cause any injury to any person, whether such person injured be a passenger on said motor vehicle or not, where death does not result from such injury, the one guilty of such gross negligence and recklessness, or of aiding or assisting or encouraging such gross negligence and recklessness, shall be deemed guilty of a misdemeanor, and on conviction thereof shall suffer a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, or both, at the discretion of the Court.

Sec. 2. Be it further enacted, etc., That nothing in this Act shall be taken or construed to prevent a prosecution for murder or manslaughter, in the event of the death of the injured party, when such death is caused by such injury.

**PHOTOGRAPHS OF AUTO DRIVERS PROHIBITED.****Act 6 of 1914, p. 7.****TITLE.**

AN ACT to prohibit police juries and municipal corporations from exacting photographs as a condition precedent to the operation of automobiles.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that police juries and municipal corporations are prohibited from exacting as a condition precedent to the operation of an automobile, the taking or filing of a photograph by the owner or operator.

Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

**PROHIBITING REMOVAL OF MANUFACTURERS' NUMBER, ETC.****Act 267 of 1918, p. 512.****TITLE.**

AN ACT to prohibit the covering, removal, defacement, alteration or destruction of numbers and identification marks of motor vehicles, or any part thereof, for the purpose of concealing or misrepresenting the identity of same, and prohibiting the purchase, sale, receipt, disposition, concealment or possession of any motor vehicle or part thereof upon which such marks or numbers have been covered or from which such marks or numbers have been removed, defaced, altered or destroyed, for the purpose of concealing or misrepresenting the identity of same; defining "motor vehicle" as used herein and providing penalties for the violation of the provisions of this Act.

**MANUFACTURERS' NUMBER.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person to cover, remove, deface, alter or destroy the manufacturer's number or any other distinguishing number or identification mark on any motor vehicle or part thereof for the purpose of concealing or misrepresenting the identity of such vehicle or part thereof.

**SELLING AUTOMOBILES AFTER NUMBER REMOVED.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any person to buy, sell, receive, dispose of, conceal or knowingly have in his possession any motor vehicle or part thereof from which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered or destroyed, for the purpose of concealing or misrepresenting the identity of such motor vehicle or part thereof.

**DEFINITION OF MOTOR VEHICLE.**

Sec. 3. Be it further enacted, etc., That for the purpose of this act "motor vehicle" is defined to be any automobile, motor cycle, tractor, or other vehicle propelled otherwise than by muscular power, except motor vehicles running upon rails or tracks.

**PENALTIES.**

Sec. 4. Be it further enacted, etc., That any person who shall violate any of the provisions of this act shall upon conviction be punishable by fine of not exceeding one thousand dollars or imprisonment for not exceeding twelve months, or both in the discretion of the court, and in default of payment of any fine imposed such person may be imprisoned for not exceeding twelve months additional.

**OPERATION OF AUTOMOBILE WITHOUT LICENSE.****Act 16 of 1918, p. 22.****TITLE.**

**AN ACT** making it unlawful to drive, operate, or use, on any public road, highway, street, or other public way, any motor vehicle subject to registration and license, or to permit same, without displaying on such vehicle the number plates showing its registration for the current year, and providing a penalty for the violation thereof.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for the owner of any motor vehicle, who is required by law to cause such vehicle to be registered and to pay a license fee therefor, to drive, operate or use such vehicle on any public road, highway, street, or other public way, or to permit such vehicle to be so driven, operated or used without conspicuously displaying on the front and rear of such vehicle while so driven, operated or used, the number plates of such vehicle showing the legal registration of such vehicle for the current year.

**Sec. 2.** Be it further enacted, etc., That whoever shall violate any provision of Section 1 of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than twenty-five dollars, or by imprisonment in the parish jail for not more than thirty days, or both, at the discretion of the court.

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**MUNICIPAL CORPORATIONS.\*****[Qualification of Voters at Municipal Elections.]**

**[R. S., Sec. 2445.]** In all elections by the people, for officers under political charters, granted or to be granted, by the General Assembly of Louisiana, the qualification of voters shall be the same as those prescribed at the time being, by the Constitution of Louisiana, for the electors of Representatives of the General Assembly.

**[Eligibility to Office in Municipal Corporations.]**

**[R. S., Sec. 2446.]** All persons shall be eligible to hold office under all political corporations granted or to be granted by the General Assembly of Louisiana, when, by the Constitution of the State for the time being, the same class of persons are eligible to the House of Representatives of the General Assembly of this State.

**Note.** The Mayor and Council of Lake Charles, proceeding under the authority of Sec. 43 Act 136 of 1888 (printed at p. 1276), prepared and adopted an amendment to the existing charter to the effect that the Mayor "shall be \* \* \* an owner of real estate, situated within the corporate limits, assessed for taxes at a valuation not less than \$300" and that "the qualification of aldermen shall be the same as are prescribed for the Mayor." Held that the amendment was unauthorized as in conflict with both R. S. Sec. 2446 and Section 21 and 28 of the Act 136 of 1888. *Powell vs. Hart* 132 L. 287.

\*Note. The Sections of the official edition of the Revised Statutes are followed by the many acts on the subject, which are now in effect. Acts specifically or by clear implication repealed are not given, but in the latter case reference is made to them at the appropriate places. Even some of the Acts printed or some part of them have been repealed or superseded, it was however considered best to print wherever there was the least doubt.

**[Shall Not Lay Tax on Certain Persons.]**

**[R. S., Sec. 2447.]** It shall not be lawful hereafter, for any municipal corporation within this State, to lay any tax on persons engaged in selling articles of their own manufacture, manufactured within this State.

**[Limitation of Power in Contracting Debts.]**

**[R. S., Sec. 2448.]** The police juries of the several parishes, and the constituted authorities of incorporated towns and cities in this State, shall not hereafter have power to contract any debt or pecuniary liability, without fully providing in the ordinance creating the debt, the means of paying the principal and interest of the debt so contracted.

**Note.** The limitation on the authority of police juries and municipal officers contained in this section is not applicable to levee boards. *Hughes vs. Board*, 108 L. 146. "Contracts whereby municipal corporations undertake to make provision in advance for such prime necessities as light and water, and incur obligations therefor to be met from time to time, as those necessities are furnished from current revenues, do not fall within "the restrictions of this section. *Blanks vs. City of Monroe*, 110 L. 949 (citing many cases). The Police Jury offered rewards for evidence to convict those violating prohibition statutes without setting aside any fund out of which to pay them. Held not to violate the section of the Revised Statutes, as the outlay came within the classification of criminal or current expenses, which had already been provided for. *Luchini vs. Police Jury*, 126 L. 972. See *Dunham vs. Town of Slidell*, 139 L. 933.

**[Duration of Ordinance Providing for Payment of Debts.]**

**[R. S., Sec. 2449.]** The ordinance or enactment providing for the payment of the principal and interest of any debt, created by any Board of Police or authorities of incorporated towns and cities, shall remain in full force until the debt and interest is paid.

**Note.** This Section is modified by Act 32 of 1902, to the extent that the period during which the ordinance providing for the payment of the debt incurred, is limited to ten years. *Dupuy vs. Police Jury*, 115 L. 579. Same vs. Same, 116 L. 783.

**[Mode of Enforcing Debts Created by Municipalities and Parishes.]**

**[R. S., Sec. 2450.]** Whenever the police juries or authorities of incorporated towns or cities, shall have provided for the payment of a debt by levying a tax, and shall fail or refuse to cause the tax to be collected for the purpose of paying the debt and interest for which it was imposed, it shall be the duty of the District Judge, on motion of the Attorney of any of the creditors of the parish or incorporated town or city, after having obtained a judgment in their favor, to issue his mandate directed to the Sheriff or other Tax Collector of the parish or incorporated town or city in which the judgment may have been obtained, to proceed forthwith to collect the taxes in the same manner as is prescribed by existing laws; and the same shall be appropriated to the payment of the judgment and costs, the Sheriff or other Tax Collector retaining the commissions allowed by law for the collection of parish taxes, as compensation for his services.

**Note.** Where a judgment against a parish has been provided for out of the taxes of certain years, which remain uncollected, a decree ordering the levy of a tax for the payment of said judgment is not warranted by law. *Kline vs. Parish of Ascension*,

28 A. 538. Bonds issued by a municipality are void, if the ordinance under which they were issued failed to provide for their payment. This is true even if they were issued in lieu of a cash subscription for stock in a railroad, which subscription was to be paid by a special tax. The provision for the payment of the stock is not applicable to the payment of the bonds. *Knox vs. City of Baton Rouge*, 36 A. 427.

**[Power to Punish Violation of Ordinances Relative to Gunpowder.]**

**[R. S., Sec. 2451.]** The City Councils of the incorporated cities of this State be, and they are hereby vested with the full power to punish with a fine, not exceeding the sum of eight hundred dollars, any contravention of the police regulations by which any individual is forbidden to keep in his house or place of residence, more than a certain quantity of gunpowder as fixed by the said police regulations, and to apply a part of the fines to the informers, and the other part to the benefit of the corporation of the cities.

**[Protection Against Contagious Diseases.]**

**[R. S., Sec. 2452.]** The authorities of incorporated towns and cities are authorized to enact ordinances to protect them from the introduction of contagious and epidemical diseases.

**[Liability for Damage to Property by Mobs.]**

**[R. S., Sec. 2453.]** The different municipal corporations in this State shall be liable for the damage done to property by mobs or riotous assemblages in their respective limits.

**[R. S., Sec. 2454.]** Railroads, plankroads, etc., shall not be constructed through streets without consent of municipality. R. S., Sec. 689, title "Corporations."

**[R. S., Sec. 2455.]** Subscription to stock of corporations for internal improvement. R. S., Sec. 711, title "Corporations."

**[R. S., Sec. 2456.]** What such ordinances shall prescribe. R. S., Sec. 702, title "Corporations."

**[R. S., Sec. 2457.]** Approval of voters required to give ordinances validity. R. S., Sec. 713, title "Corporations."

**[R. S., Sec. 2458.]** Stock does not belong to municipality, but to taxpayers. R. S., Sec. 714, title "Corporations."

**[R. S., Sec. 2459.]** Embezzlement of Public Money. R. S., Sec. 903, title, "Crimes and Offenses."

**[R. S., Sec. 2460.]** Embezzlement of Funds of Parish or Municipality. R. S., Sec. 904, title "Crimes and Offenses."

[R. S., Sec. 2462.] State relinquishes right to grant license, where parish, etc., does not grant it. R. S., Sec. 1212, title "Drinking Houses."

[R. S., Sec. 2463.] Charge of Judges to Grand Juries relative to laws regulating sale of liquor. R. S., Sec. 1218, title "Drinking Houses."

[R. S., Sec. 2464.] Authority of Parishes and Municipalities to adopt ordinances regulating liquor traffic. R. S., Sec. 1214, title "Drinking Houses."

[R. S., Sec. 2465.] Mayors and other officers to report defaulting Governor. R. S., Sec. 1131, title "Defaulter."

[R. S., Sec. 2466.] Sale of Town Lots—Place, Variations, etc. R. S., Sec. 1437, title "Evidence."

[R. S., Sec. 2467.] Recorders of New Orleans, etc, to visit scene of fires and make proces verbal. R. S. 1439, title "Evidence."

[R. S., Sec. 2468.] Appeals in which Municipality or Parish is interested to be tried by preference. Legislation under R. S., Sec. 1906, title "Judiciary Department."

[R. S., Secs. 2469 to 2471.] Contracts for paving streets with Nicholson Pavement, etc.—obsolete. Superseded by elaborate legislation relating to paving streets enacted by the various acts under this title.

[R. S., Sec. 2472.] Remission of fines by Municipal Court, etc. R. S., Sec. 1070, title "Criminal Proceedings."

[R. S., Sec. 2473.] Who may abate fines. R. S., Sec. 1071, title "Criminal Proceedings."

## **COMMISSION MANAGER FORM OF MUNICIPAL GOVERNMENT.**

**Act 160 of 1918, p. 271.**

### **TITLE.**

AN ACT to provide for a form of municipal government for cities in the State of Louisiana, having a population of five thousand or over, the City of New Orleans excepted, to be known as the Commission-Manager form, to make provisions for the adoption of the same; to make the violations of certain provisions in same a misdemeanor, and to provide a penalty therefor; to incorporate and re-incorporate municipalities under the form of government herein provided, define boundaries, grant and prescribe municipal power and functions and provide for the administration thereof; and to repeal all laws inconsistent therewith.

### **CORPORATION WHICH MAY ORGANIZE UNDER ACT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any municipality within the State of Louisiana, the City of New Orleans excepted, now or hereafter having a population of five thou-

sand or over, as shown by the last preceding Federal census, or by any census taken by the order and under the direction of the municipal authorities of said city, may continue their organization as a body politic and become organized and adopt the form of municipal government herein specified and commonly known as the Commission-Manager plan, by proceeding as hereinafter provided.

#### PROCEEDINGS TO ADOPT ACT, ELECTION.

Sec. 2. Be it further enacted, etc., That upon petition of electors equal in number to thirty-three per centum (33%) of the votes cast for all candidates for Mayor at the last preceding general election in said city, the Mayor shall by proclamation submit the question of reorganizing as a city and adopting the form of municipal government prescribed in this Act at a special election to be held at a time specified herein, not less than thirty days nor more than sixty days after the said petition is filed. If the said plan is not adopted at the special election called, the question of adopting said plan shall not be re-submitted to the voters of said city for adoption within two years thereafter, and then or thereafter the question to adopt may be re-submitted upon the presentation of a petition signed by electors as above provided.

At such election the proposition to be submitted shall be:

"Shall the proposition to organize the City of ..... under the Commission-Manager plan, according to Act No. ..... of 1918, of the General Assembly, be adopted?" The election thereon shall be conducted and the vote canvassed and the results declared in the manner as provided by law in respect to other regular municipal elections. If the majority of the votes cast shall be in favor thereof, the city shall then proceed to the election of five commissioners at the first regular city election, after the adoption of the provisions of this Act.

Any city operating under the provision of Act No. 302 of 1910, may adopt the provisions of this Act by proceeding according to the amendments to said Act No. 302 of 1910 as amended by the session of 1918 of the Louisiana Legislature or other amendment thereafter adopted.

#### POWER OF SUCH CORPORATION.

Sec. 3. Be it further enacted, etc., The inhabitants of the City as its limits now are, or may hereafter be, shall be and continue, a body politic and corporate by its present name and, as such, shall have perpetual succession; may use a corporate seal which it may alter at will; may sue and be sued; may acquire property in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase for any municipal purpose, and may also acquire all excess over that needed for all such purposes, and sell or lease such excess with proper restriction in order to protect and preserve the improvement; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution, which may be required to carry out fully the provisions of any conveyance, deed, or will, in relation to any gift or bequest or the provisions of any lease by which it may acquire property; may acquire by condemnation or otherwise, construct, own, lease, and operate and regulate public utilities within or without the corporate limits of the City subject only to restrictions imposed by general law for the protection of other communities; may assess, levy and collect taxes for general and special purposes, on the faith and credit of the City by issue or sale of bonds, notes or other evidence of debt, of the City on the security of the municipality, or of any improvement or excess property thereof, or public utility owned by the city, or the revenue thereof, or all of these, including, in the case of a public utility, if deemed proper by the City Commission, a franchise stating the terms upon which, in case of foreclosure, the purchaser may obtain possession and operate such utility; may appropriate the money out of the city for all lawful purposes; may create, provide for, construct and maintain all things of the nature of public works and improvements; may grant franchises and licenses and fix the terms and

regulate the exercise thereof, providing, however, that no waiver or forfeiture of the power to regulate public or privately operated public utilities, may be affected; may levy and collect assessments for local improvements; may license and regulate persons, partnerships, corporations and associations engaged in any business, occupation, profession or trade; may define, regulate, prohibit, abate and suppress, and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height and material used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use, for whatever purpose, of the streets or other public places; may create, establish, abolish and organize offices, and fix the salaries and compensations of all officers and employees; may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city and for the performance of the functions thereof. The city shall have all the powers that may be granted elsewhere in this Act, or that are now granted to the existing municipality general or special laws and all amendments thereto, save those inconsistent herewith or contrary hereto, and such other powers as now are, or hereafter may be granted to municipalities by the Constitution or laws of Louisiana; and all such powers, whether express or implied, shall be exercised and enforced in the manner prescribed by this Act, or when not prescribed herein, in such manner as shall be provided by ordinance or resolutions of the Commission.

**MAY OBTAIN FURTHER POWER.**

Sec. 4. Be it further enacted, etc., The enumeration of particular powers by this Act shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the Constitution and laws of Louisiana, it would be competent for this Act specifically to enumerate.

**COMMISSION-MANAGER, OTHER OFFICERS, ETC.**

Sec. 5. Be it further enacted, etc., The form of government provided in this article shall be known as the "Commission-Manager Plan," and shall consist of a commission of five citizens, who shall be elected at large in manner hereinafter provided. The Commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations, and appoint a chief administrative officer to be known as the "City Manager," and exercise all powers hereinafter provided.

All commissions shall serve for a term of four years and until their successors are elected and have qualified.

**FILLING VACANCIES.**

Sec. 6. Be it further enacted, etc., If by any reason of resignation, death, failure to qualify or other circumstances, a vacancy should exist or occur in the said commission, an election shall be ordered as provided for other city elections. If the term of office thus vacated would have expired within six months the remaining commissioners and a fifth person selected by them shall select a committee of five qualified electors, who shall select some person to fill the unexpired term and the certificate of their action shall be entered on the journal of the city commission.

**QUALIFICATION OF COMMISSIONERS.**

Sec. 7. Be it further enacted, etc., Members of the Commission shall be residents of the city and shall have the qualifications of electors therein. Commissioners and other officers and employees shall not hold any other public office or public appointment carrying or contemplating any financial remuneration, salary, fee, or emolument, except in the State military services, or a notary public, and shall not be interested in the profits or emoluments of any contracts, job, work, or service for the municipality, directly

or indirectly, either as one of the contracting parties or as a shareholder, partner, director or other officer in the firm, corporation or enterprise which is one of the contracting parties, or in any way financially interested in such contract. Any Commissioner who shall cease to possess any of the qualifications herein required, shall forfeit his office. Any such contract in which any member is or may become interested, may be declared void by the Commission, or in the event of their failure to act, on the suit of any taxpayer.

No Commissioner or other officer or employee of said city shall accept any frank, free ticket, passes, or service, directly or indirectly, from any person, firm or corporation, upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor and punishable as such as provided under the laws of the State of Louisiana. Any such prohibition of free service shall not apply to policemen or firemen in uniform or wearing their official badges, where same is provided by ordinance.

Any Commissioner, City Manager, or Department head, who shall have been convicted of a crime and sentenced to imprisonment shall thereby forfeit his office.

#### **ELECTION PRECINCTS.**

Sec. 8. Be it further enacted, etc., The city shall be divided into election precincts with geographical limits and numerical designations corresponding to the city wards or election precincts as now constituted.

A voter shall be required on registration to indicate his residence in the city and shall be registered and listed as voting in the election precinct in which his residence is located. Removal from one election precinct to another shall necessitate a new registration by such voter.

#### **NOMINATION OF CANDIDATES.**

Sec. 9. Be it further enacted, etc., Candidates for Commissioners under the provisions of this Act shall be nominated at Primary Elections held in pursuance of the Primary Election laws of the State of Louisiana as they now are, or may hereafter be, except as otherwise provided herein.

#### **ELECTION OF COMMISSIONERS.**

Sec. 10. Be it further enacted, etc., A regular election for the choice of Commissioners under the provisions of this Act shall be held on the first general election day, as fixed by the existing charter of the municipality or by general law, succeeding the election at which such municipality is organized under the provisions of this Act, and on the corresponding day of the corresponding week of every fourth year thereafter.

Elections so held shall be known as regular municipal elections, and shall be conducted in accordance with the Constitution and laws of the State of Louisiana.

#### **SPECIAL ELECTIONS.**

Sec. 11. Be it further enacted, etc., All other elections, excepting those for the nomination of candidates for the office of Commissioners, shall be known as special municipal elections, which special elections shall be conducted and the results canvassed and announced by the City Commission, and held in pursuance to and in accordance with the Constitution and General Election Laws of the State of Louisiana, except as herein otherwise provided.

#### **REGULAR ELECTIONS.**

Sec. 12. Be it further enacted, etc., A—Regular elections for the offices of City Commissioners shall be held by Election Commissioners with one clerk for each polling place to be appointed by the City Commission who shall give at least fifteen days notice of the election by proclamation published in a newspaper of general circulation printed in the city, designating therein the polling places for each election circuit and the commissioners and clerks of election for each polling place, which polling places

shall not be less than six in number and as many more as shall be deemed necessary for the public convenience.

B—Said Commissioners and clerks shall conduct said election in all respects according to the laws of the State of Louisiana regulating elections, except as to the returns thereof.

C—The returns of the regular election shall be sealed and made to the City Commission, who shall receive the said returns, cause them to be safely preserved and protected with seals unbroken, and shall on the Monday following the election, at 10:00 a.m. in the Council Chamber of the City Hall or at such other place as the Commission shall by public notice designate, and in the presence of any person or persons who choose to be present, produce these returns, break the seals and immediately proceed to compile the votes and designate the results.

D—The Commission shall declare the person or persons receiving the highest number of votes for the City Commissioners to be elected as such in number equal to the vacancies to be filled, and the parties so elected shall thereupon take the oath of office, which may be administered by any person authorized to administer oaths, and no commission, certificates or other documents from the Governor of the State, or other authority, shall be necessary or prerequisite to qualification of such officers to perform their duties as such.

#### **REGISTRAR OF VOTERS.**

Sec. 13. Be it further enacted, etc., A—The Commission shall appoint a registrar of voters who shall hold office for a term of four years, and whose duty it shall be to make a complete and exact registration of all voters of the city entitled to vote under the Constitution and election laws of the State of Louisiana and under this Act; he shall not register any person not entitled under said Articles and laws to vote at a state election; he shall make such registration showing the number and date of the registration, name of voter, residence, age, color, occupation, where born, time of residence in State, Parish, City and election precinct, party affiliation, signature of voter and remarks. The Registrar of Voters shall furnish to the Commissioners of Election certified lists of the voters registered from that precinct, and shall perform such other duties relative to the registration of voters and elections as may be required of him by the Commission or the laws of the State of Louisiana. It shall be the duty of the Registrar of Voters to make a complete new registration every four years, beginning ninety (90) days after the adoption of this Act. The registrar of voters shall open his office for the registration of voters sixty (60) days prior to the date of any general or special election held hereunder and shall keep said office and registration books open for registering new voters or changing existing registration for a period of thirty (30) days and close the same thirty (30) days prior to such election. Electors shall not be registered within thirty (30) days next preceding any election at which they offer to vote, but application to the courts and appeals may be heard and determined and revision take place at any time prior to the election, and no person who in respect to age and residence would become entitled to vote within the said thirty days shall be excluded from registration on account of his want of qualifications at the time of his application for registration, as is provided by the Constitution and laws of the State of Louisiana.

B—The registrar of voters shall furnish to each person registering a certificate showing the number and date of the registration and showing all the facts shown on the original registration.

C—The compensation, assistance and expenses of the registrar in making the registration, shall be fixed by the Commission.

D—Provided, that nothing hereinabove contained in section thirteen of this Act shall apply to those cities where city registration is made under existing Parish or State registration laws, and in such cities excepted from the operation hereof, the existing registration laws shall continue in effect and be in no way impaired, repealed, or affected hereby, and the duties

herein imposed on the registrar of voters shall be performed by the officer or officers now exercising similar functions under the existing registration laws.

**RECALL OF OFFICERS.**

Sec. 14. Be it further enacted, etc., Any or all of the Commissioners, or the City Manager provided for in this Act may be removed from office by the electors. The procedure to effect such removal shall be as follows:

A petition demanding that the question of removing such officer or officers be submitted to the electors shall be filed with the clerk of the Commission.

Such petition for the recall of any or all of the Commissioners or the City Manager shall be signed by at least twenty-five (25) per cent of the total number of registered and qualified voters in the municipality.

The signatures of such petitions need not be appended to any one paper.

**PETITION FOR REMOVAL.**

Sec. 15. Be it further enacted, etc., Petition papers shall be procured only from the Clerk of the Commission, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers an affidavit shall be made by one or more qualified electors and filed with the Clerk of the Commission, stating the name and office of the officer or officers sought to be removed. The Clerk of the Commission, upon issuing such petition papers to an elector, shall enter a record, to be kept at his office, the name of the elector to whom issued, the date of such issuance and the number of papers issued and shall certify on such papers the name of the elector to whom issued and the date issued. No petition papers so issued shall be accepted as part of the petition unless it bears such certificate of the Clerk of the Commission and unless it be filed as provided herein.

**SIGNATURES TO PETITION.**

Sec. 16. Be it further enacted, etc., Each signer of a recall petition shall sign his name in ink or indelible pencil and shall place thereon after his name, his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be.

**FILING OF PETITION.**

Sec. 17. Be it further enacted, etc., All papers comprising a recall shall be assembled and filed with the Clerk of the Commission as one instrument within thirty (30) days after the filing with the Clerk of the Commission of the affidavit stating the name and office of the officers sought to be removed.

**NOTICE TO OFFICERS TO BE VACATED.**

Sec. 18. Be it further enacted, etc., The Clerk of the Commission shall at once submit the recall petition to the Commissioners and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five days after such notice, the Commission shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than seventy (70) days nor more than ninety (90) days after the petition has been presented to the Commission, at the same time as any other general or special election held within such period; but if no such election be held within such period, the Commission shall call a special recall election to be held within the time aforesaid.

**ELECTION FOR RECALL, TICKETS.**

Sec. 19. Be it further enacted, etc., The ballots at such recall elections shall conform to the following requirements:

A—With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office (name of office) by recall?"

Immediately following each such question there shall be printed on the ballots the two propositions, in the order set forth:

For the recall of (name of person).

Against the recall of (name of person).

Which the electors, by making a cross mark (X), or stamp, may vote for either of such propositions. Under said questions shall be placed the names of candidates to fill the vacancy or vacancies. The name of the officer or officers whose removal is sought shall not appear on the ballot as a candidate or candidates to succeed himself or themselves.

B—Before any such recall election for the removal of Commissioners shall be had, there shall be nominated candidates to fill the vacancy or vacancies, the nominations therefor to be made by petition, which petition for each candidate shall be signed by at least five (5) per cent of the registered electors of the City and shall be filed with the election authorities of the city at least thirty (30) days prior to the date fixed for holding said recall election.

C—The signatures to a nomination petition need not at all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place on the petition after his name his place of residence by street and number.

D—The petition papers shall be in substantially the following form:

We, the undersigned, hereby present, ..... whose residence is ..... Louisiana, as a candidate for nomination to the office of Commissioner, to be voted upon at the recall election, to be held on the ..... day of ..... A. D. 19....., and we individually certify that we have not signed similar petitions greater in number than the number of Commissioners to be chosen at the next general municipal election.

Name .....  
 Street and number .....  
 Space for signatures .....  
 Parish .....

State of Louisiana.

..... being duly sworn, deposes and says that he is the circulator of the foregoing signatures paper containing ..... signatures and that the appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

Signed .....

Subscribed and sworn to before me, this ..... day of .....  
 A. D. 19.....

This petition, if found sufficient, shall be returned to .....  
 at No. ..... street, ..... Louisiana.

E—All nominating papers comprising a petition shall be assembled and filed with the election authorities, as one instrument, at least thirty (30) days prior to the holding of the recall election with respect to which such petition is filed, except as hereinafter provided.

G—In the event that no candidate for Commissioner at a recall election receives a majority of the votes cast at such election, a second election shall be called by the Commissioners to be held within ten days thereafter at which election only the names of the two highest candidates shall be printed on the ballots.

**EFFECT OF RESULT OF ELECTION.**

Sec. 20. Be it further enacted, etc., Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his unexpired term, subject to recall as before. If the majority of the votes cast at a recall election shall be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition or process be deemed removed from office.

**WHEN RECALL PETITION MAY BE FILED.**

Sec. 21. Be it further enacted, etc., No recall petition shall be filed against a Commissioner or the City Manager within six (6) months after he takes office, nor in case of an officer re-elected in a recall election until six (6) months after that election. The clerk of the City Commission shall preserve in his office all papers comprising or connected with a petition for a recall for the period of one year after the same were filed.

**RECALL OF ORDINANCES.**

Sec. 22. Be it further enacted, etc., Any proposed ordinance may be submitted to the Commission by petition signed by at least ten (10) per cent of the total number of registered voters in the municipality. All petition papers, circulated with respect to any ordinance shall be uniform in character and contain the proposed ordinance in full and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter named.

**SIGNATURES.**

Sec. 23. Be it further enacted, etc., Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name his place of residence by street and number. The signatures to any such petition paper need not at all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

**FILING PETITION.**

Sec. 24. Be it further enacted, etc., All papers comprising a petition shall be assembled and filed with the clerk of the Commission as one instrument, and when so filed with the clerk of the Commission shall submit the proposed ordinance to the Commission at its next regular meeting. Provisions shall be made for public hearings upon the proposed ordinance.

**PROCEDURE.**

Sec. 25. Be it further enacted, etc., The Commission shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of submission. If the Commission rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors in its original form or that it be submitted to a vote of the electors with any proposed change, addition, or amendment, if a petition for such election is presented bearing signatures of twenty-five (25) per cent of the electors of the city.

**SUBMISSION TO VOTERS.**

Sec. 26. Be it further enacted, etc., When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the clerk of the Commission within twenty (20) days after the final action on such proposed ordinance by the Commission.

**HOLDING ELECTION.**

Sec. 27. Be it further enacted, etc., Upon receipt of the certificate and certified copy of the proposed ordinance, the clerk shall certify the fact to the Commission at its next regular meeting, who shall cause the same to be published. If an election is to be held not more than three months nor less than thirty (30) days after the receipt of the clerk's certificate by the Commission such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the commission shall provide for submitting the proposed ordinance to the electors at a special election within said time.

**FORM OF BALLOTS.**

Sec. 28. Be it further enacted, etc., The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions, "For the Ordinance" and "Against the Ordinance". Immediately at the left of each proposition there shall be a square in which by making a cross (X) or stamp, the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall become thereupon an ordinance of the city.

**SUBMISSION OF ORDINANCES BY COUNCIL.**

Sec. 29. Be it further enacted, etc., Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the Commission as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the Commission as in the case of other ordinances.

**WHEN ORDINANCES GO INTO EFFECT.**

Sec. 30. Be it further enacted, etc., No ordinance passed by the Commission, unless it be an emergency measure, shall go into effect until thirty (30) days after its first publication by the Commission. If, at any time, within said thirty (30) days a petition signed by twenty-five (25) per cent of the total number of registered voters in the municipality be filed with the clerk of the Commission requesting that any such ordinance be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken.

**RECONSIDERATION OF ORDINANCES.**

Sec. 31. Be it further enacted, etc., The clerk of the Commission shall deliver the petition to the Commission, which shall proceed to reconsider the ordinance. If, upon such reconsideration the ordinance be not entirely repealed, the Commission shall provide for submitting it to a vote of the electors, and in so doing the Commission shall be governed by the provisions of Sections 26, 27 and 28 hereof respecting the time of submission and of manner of voting on ordinances proposed to the Commission by petition. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

**REFERENDUM PETITIONS.**

Sec. 32. Be it further enacted, etc., Referendum petitions must contain the text of the ordinances, the repeal of which is sought, and shall be subject in all respects to the requirements for petitions submitting proposed ordinances to the Commission. Ballots used in referendum elections shall conform in all respects to those provided for in Section 28 of this Act.

**ORDINANCES BY INITIATIVE PETITION.**

Sec. 33. Be it further enacted, etc., Ordinances to the Commission by initiative petition and passed by the Commission without change, or passed in an amended form and not required to be submitted to a vote of the

electors by the committee of petitioners, shall be subject to the referendum in the same manner as other ordinances.

**CONFLICT IN ORDINANCES.**

Sec. 34. Be it further enacted, etc., If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

**EMERGENCY ORDINANCES.**

Sec. 35. Be it further enacted, etc., Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment in accordance with the ordinance, any expense incurred previous to the referendum vote thereon.

**PETITION INVOLVING EXPENDITURE, ETC.**

Sec. 36. Be it further enacted, etc., In case a petition be filed requiring that a measure passed by the Commission providing for an expenditure of money, a bond issue or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

**ELECTION OF CHAIRMAN BY COMMISSIONERS.**

Sec. 37. Be it further enacted, etc., At the first meeting of the Commission succeeding the election at which Commissioners are elected the Commission shall select one of its members to be the Chairman. In such selections a minority vote shall determine. In the event of a vacancy in the office of the Chairman, the members of the Commission shall choose his successor for the unexpired term, from their own number.

The Chairman shall be the presiding officer, except that in his absence a chairman pro tempore may be chosen. The Chairman shall be the acting mayor and shall exercise such powers conferred and perform all duties imposed upon him by this charter, the ordinances of the city and the laws of the State. He shall execute all contracts for and on behalf of the City and shall be recognized as the official head of the city by the courts for the purposes of serving civil processes, by the Governor for the purposes of the military laws and for all ceremonial purposes.

**COMPENSATION OF OFFICERS.**

Sec. 38. Be it further enacted, etc., The compensation of city commissioners shall not exceed two hundred and fifty dollars (\$250) per annum, payable monthly at the end of each and every month. For absence from duty called meetings of the City Commission, there shall be deducted a penalty of two per centum (2%) of their annual salary for each absence. In addition, the Mayor shall receive for each year or part thereof of his incumbency, an extra compensation of fifty dollars (\$50.00). Absence from five consecutive meetings shall operate to vacate a seat of a member unless such absence be authorized by the commission.

**MEETINGS.**

Sec. 39. Be it further enacted, etc., At ten o'clock a. m., on the second Monday in the succeeding month following a popular municipal election, the Commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly elected commissioners shall assume the duties of their office. Thereafter the commissioners shall all meet at such times as may be prescribed by ordinance or resolution, except that they shall meet not less than twice each month. The

Chairman and any two members of the Commission and the City Manager, may call a special meeting of the Commission, upon at least six (6) hours written notice to each member of the Commission, served personally on each member or left at his usual place of residence. All meetings of the Commission shall be public and any citizen shall have access to the minutes and records thereof, at all reasonable times. The Commission shall determine its own rules and order of business and shall keep a journal of its proceedings.

#### **QUALIFICATION OF COMMISSIONERS, ADOPTION OF ORDINANCES.**

Sec. 40. Be it further enacted, etc., The Commission shall be judge of the election and qualifications of its members. A majority of all members elected shall constitute a quorum to do business, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Commission shall be necessary to adopt any ordinance or resolution. The votes upon the passage of all ordinances and upon the adoption of such resolutions as the Commission by its rules shall prescribe shall be taken by "Yea" and "Nay" and entered upon the journal. Every ordinance or resolution passed by the Commission shall be signed by the Chairman and two members, and filed with the Clerk, within two days and by him recorded.

#### **APPOINTMENTS, HOW MADE.**

Sec. 41. Be it further enacted, etc., Neither the City Commission nor any member thereof shall dictate the appointment of any person or persons to city positions except as otherwise provided by this Act.

#### **PROPOSED ORDINANCES, HOW INTRODUCED.**

Sec. 42. Be it further enacted, etc., Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but the general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the Commission shall be "Be it ordained by the Commission of the City of .....". The enacting clause of all ordinances submitted by the initiative shall be, "Be it ordained by the people of the City of ....."

No ordinance, unless it be declared an emergency measure shall be passed on the day on which it shall have been introduced unless so ordered by an affirmative vote of four (4) members of the Commission.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended and the original ordinance, resolution, section or sections, so amended shall be repealed.

#### **WHEN ORDINANCES BECOME EFFECTIVE.**

Sec. 43. Be it further enacted, etc., All ordinances and resolutions shall be in effect from and after thirty (30) days from the date of their passage by the Commission, except as otherwise provided in this Act. The Commission may, by an affirmative vote of not less than four members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate reservation of the public peace, property, health, or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be passed as an emergency measure.

**CLERK OF COMMISSION.**

Sec. 44. Be it further enacted, etc., The Commission shall choose a clerk and such other officers and employees of its own body as are necessary. The clerk shall be known as the Clerk of the Commission and shall keep records and perform such other duties as may be required by this Act or by the Commission.

**AUDIT OF MUNICIPAL BOOKS.**

Sec. 45. Be it further enacted, etc., The Commission shall cause a practically continuous audit to be made of the books of account, records and transactions of the administrative departments of the city. By a practically continuous audit is meant not less frequent than once every three months. Such audit, during each fiscal year shall be made by one or more certified public accountants who hold a certificate issued by the State Board of Accountants of Louisiana or by a state maintaining an equal standard of professional requirements, which entitles the holder of such certificate to a Louisiana certificate. The duties of the auditor or auditors so appointed shall include the certifications of all statements required under Section No. 80 of this Act. Such statements shall include a general balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules for each utility publicly owned or operated; summaries of income and expenditures, supported by detailed schedules; and also comparisons, in proper classifications, with the last previous year; also a check and certification as to whether or not each item of expenditure has been made in the manner indicated herein and for the proper accounts and in the form and for the purposes contemplated by this Act. The report of such audit for each previous year shall be printed and a copy thereof furnished to the Louisiana State Supervisor of Public Accounts, the State Board of Affairs, to each member of the Commission and to each citizen who may apply therefor; and a condensed summary thereof shall be published in the manner provided for by the Commission.

**ORDINANCES MUST BE RECORDED.**

Sec. 46. Be it further enacted, etc., Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the Clerk of the Commission. Every ordinance or resolution shall be published at least once within ten (10) days after its final passage in such manner as is provided by this Act.

In publishing, recording and preserving all ordinances passed by the Commission or adopted by the people, the vote thereon shall be noted and certified to by the Clerk of the Commission.

**MONTHLY STATEMENTS.**

Sec. 47. Be it further enacted, etc., That the City Commission shall have furnished them a monthly statement showing in detail all receipts and expenditures of the city for the preceding month; and the aggregate receipts and expenditures of each department shall be published by the City Commission in such manner as to provide full publicity.

**INVESTIGATION OF FINANCIAL TRANSACTIONS BY COMMISSION.**

Sec. 48. Be it further enacted, etc., The Commission, or any committee thereof duly authorized by the Commission so to do, may investigate the financial transactions of any office or department of the city government, and the official acts and conduct of any official, and by similar investigations may secure information upon any matter. In conducting such investigations, the Commission or any committee thereof, may compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas and attachments which shall be signed by the presiding officer of the Commission or the Chairman of such committee, as the case may be, which may be served and executed by any officer authorized by law to serve subpoenas and other process. If any witness

shall refuse to testify to any facts within his knowledge, or to produce any papers or books in his possession, or under his control, relating to the matter under inquiry, before the Commission, or any such committee, the Commission shall have power to cause the witness to be punished for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

#### **APPOINTMENT OF CITY MANAGER.**

Sec. 49. Be it further enacted, etc., The Commission shall appoint a City Manager who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments; he shall be appointed without regard to his political beliefs and may or may not be a resident of the city when appointed. He shall hold office at the will of the Commission and shall be subject to recall as herein provided. In the event of the City Manager shall be recalled by the people, he shall not be eligible for reappointment for a period of four years thereafter.

#### **POWERS AND DUTIES OF MANAGER.**

Sec. 50. Be it further enacted, etc., The powers and duties of the City Manager shall be:

- (a) To see that the laws and ordinances are enforced.  
And,
- (b) To appoint, except as herein provided, remove all directors of the departments under his administration and control, and all subordinate officers and employees in the departments in both the classified and unclassified service, except department of the law, all appointments to be upon merit and fitness alone, and in the classified service all appointments and removals to be subject to the civil service provisions of this Act.
- (c) To exercise control over all departments except the department of education and the department of law, and divisions created herein or that may be created by the commission, hereafter.
- (d) To attend all meetings of the Commission with the right to take part in the discussion but having no vote.
- (e) To recommend to the Commission for adoption, such measures as he may deem necessary or expedient.
- (f) To keep the Commission fully advised as to the financial condition and needs of the City.
- (g) To enforce, under direction of the Commission all of the obligations of privately owned or operated public utilities enforceable by the city.
- (h) To supervise and control, in person or through the City Engineer, all matters affecting the inspection and regulation of the erection, maintenance, repair and occupancy of buildings as may be ordained by the Commission or established by the general laws of the State of Louisiana.
- (i) To enforce all laws and ordinances relating to weights and measures, as may be adopted by the Commission or ordained by State laws.
- (j) To enact and perform all the duties as may be ordained by the City Commission of the City Purchasing Agent until such time as the Commission shall determine to the contrary and see fit to appoint a separate official to act as City Purchasing Agent.
- (k) To perform such other duties as may be prescribed by this Act or to be required of him by ordinance or resolution of the Commission.

Sec. 51. Be it further enacted, etc., The City Manager shall receive such salary as may be fixed by ordinance, of the Commission.

Sec. 52. Be it further enacted, etc., The City Commission may prescribe and determine the functions of such departments for the manage-

ment of municipal affairs as may be necessary and advisable in view of the conditions existing in such city. The commission may discontinue any departments hereinafter prescribed; they may create new or other departments and prescribe their functions; they may combine and distribute the functions of departments, and subdivisions thereof.

Until otherwise prescribed by ordinance by the City Commission, the following administrative departments and the functions thereof are hereby prescribed and established.

1. Department of Law.
2. Department of Public Service.
3. Department of Public Welfare.
4. Department of Public Safety.
5. Department of Finance.

#### **HEADS OF DEPARTMENTS.**

Sec. 53. Be it further enacted, etc., Excepting the Department of Law, as may be hereinafter provided for, one or more managing heads for each department shall be appointed by the City Manager and shall serve until removed by the City Manager or until his successor is appointed and has qualified. He shall conduct the affairs of this department in accordance with the rules and regulations made by the City Manager and shall be responsible for the conduct of the officers and employees of his department for the performance of its business, and for the custody and preservation of the books, records, papers, and property under its control. Subject to the supervision and control of the City Manager in all matters, the director of each department shall manage the department.

#### **CITY PLAN BOARD.**

Sec. 54. Be it further enacted, etc., The Commission may appoint a City Plan Board and upon the request of the City Manager shall appoint advisory boards, the members of such boards shall serve without compensation and their duties shall be to consult and advise with the various departments. The duties and powers of boards thus created shall be prescribed by ordinance.

#### **CITY ATTORNEY.**

Sec. 55. Be it further enacted, etc., The City Attorney, who shall be appointed by the City Commission, shall be an attorney at law admitted to practice in the State of Louisiana, and shall be the head of the Department of Law. He shall be the legal adviser of and attorney and counsel for the City, and for all officers and departments thereof in matters relating to their official duties. He shall prosecute and defend all suits for and in behalf of the city, and shall prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form and correctness thereof.

The City Attorney shall attend the meetings of the Commission, and upon request, the meetings of any Board herein provided for.

#### **DUTIES OF CITY ATTORNEY.**

Sec. 56. Be it further enacted, etc., The City Attorney shall be the prosecuting attorney of the municipal court. He shall prosecute, as requested by the City Manager or any Commissioner, all cases brought before such court and perform the same duties, so far as they are applicable thereto, as are required of the prosecuting attorney of the State.

#### **SAME SUBJECT.**

Sec. 57. Be it further enacted, etc., When required to do so by resolution of the Commission, the City Attorney shall prosecute or defend for and in behalf of the city, all complaints, suits, and controversies in which the city is a party, and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute or defend.

**REQUESTS FOR OPINION OF CITY ATTORNEY.**

Sec. 58. Be it further enacted, etc., The Commission, the City Manager, the director of any department, or any officer, or board not included within a department, may require the opinion of the City Attorney upon any question of law involving their respective powers and duties upon all matters other than administrative details, and upon matters involving an amount in excess of one hundred dollars (\$100) or the value thereof, such request and opinion shall be in writing and a copy thereof furnished to the Clerk, who shall preserve the same under the heading "Opinions of the City Attorney." Such opinions shall be open to public inspection except that whenever any such opinion shall be in its nature one wherein immediate publicity would be contrary to the interests of the City, its publication may be temporarily withheld upon instruction of the Commission. Failure to observe this section shall be deemed sufficient ground for recall.

**INJUNCTIONS, WHEN CITY ATTORNEY SHALL APPLY FOR.**

Sec. 59. Be it further enacted, etc., The City Attorney shall apply, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the city, or the abuse of its corporate powers, or the execution or performance of any contract made in behalf of the city in contravention of law, or which was procured by fraud or corruption.

**FORFEITURE OF CONTRACTS.**

Sec. 60. Be it further enacted, etc., When an obligation or contract made on behalf of the city granting a right or easement, or creating a public duty, is being evaded or violated, the City Attorney shall likewise apply for the forfeiture of the specific performance thereof as the nature of the case requires.

**WRITS OF MANDAMUS.**

Sec. 61. Be it further enacted, etc., In case any officer or board fails to perform any duty required by law, it shall be the duty of the City Attorney, on his own motion, to apply to a court of competent jurisdiction for a writ of mandamus or other appropriate remedy to compel the performance of such duty.

In case any officer or board or other agency of the city attempts or accomplishes any action ultra vires his or its power, or in any manner seeks to violate or vitiate any of the provisions of this Act, it shall be the duty of the City Attorney, on his own motion, or on the written request of any Commissioner, or of not less than five per cent of the registered and qualified voters, to promptly inform such officer, board or agency of such facts, and unless same promptly be desisted and remedied, to take such legal action as is proper to enforce, effect and secure the provisions of this Act and the general laws of the State applicable thereto.

**TAX PAYERS MAY ACT ON FAILURE OF CITY ATTORNEY.**

Sec. 62. Be it further enacted, etc., In case the City Attorney fails to make any application or take any action provided for in the preceding sections, any taxpayer may institute suit or proceedings for such purpose in his own name on behalf of the city. No such suit or proceeding shall be entertained by any court until such request to the City Attorney shall first have been made, nor until the taxpayer shall have given security for the costs of the proceeding.

**LIMITATION ON RIGHT OF ACTION.**

Sec. 63. Be it further enacted, etc., No such action to enjoin the performance of a contract entered into, or the payment of any bonds or notes issued by the city, shall be brought or maintained unless commenced within one year from the date of such contract, bonds, or notes.

**COSTS IN TAX PAYERS SUITS.**

Sec. 64. Be it further enacted, etc., If the court hearing any such action be satisfied that the taxpayer had good cause to believe his allegations were well founded, or that they are sufficient in law, it shall make such order as the equity and justice of the case demand. In such case, the taxpayer shall be allowed his costs, and if judgment be finally entered in his favor, he may be allowed as part of the costs a reasonable compensation for his attorney.

**ADDITIONAL DUTIES OF CITY ATTORNEY.**

Sec. 65. Be it further enacted, etc., In addition to the duties imposed upon the City Attorney by this Act or required of him by ordinance, he shall perform the duties which are imposed upon city solicitors by the general law of the State, beyond the competence of this Act to alter or require and shall be ineligible, upon the penalty of forfeiture of his office, at the suit of any taxpayer, from being or acting as the personal attorney-at-law or counsel in any civil or criminal matter for or on behalf of any of the City Commissioners or the City Manager.

**CITY ENGINEER AND SUPERINTENDENT OF PUBLIC UTILITIES.**

Sec. 66. Be it further enacted, etc., Subject to the supervision and control of the City Manager in all matters, the City Engineer shall manage and have charge of the construction and improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts and other public highways; of sewers, drains, ditches, culverts, canals, streams and water courses; of all public buildings; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except parks and play grounds, of the making and preservation of all surveys, maps, plats, drawings, and estimates of public work; the cleaning, lighting and sprinkling of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to his department.

The Superintendent of Public Utilities shall manage the market houses, sewage disposal plants and farms, and all public utilities of the City except in cities where public utilities are neither owned or operated by the City, or where the Commission shall by ordinance, otherwise provide, the duties of the Superintendent of Public Utilities shall devolve upon and be performed by the City Engineer, or such other officer as may be selected by the Commission.

**PROBATION OFFICER.**

Sec. 67. Be it further enacted, etc., Subject to the supervision and control of the City Manager, the probation officer shall manage correctional, and reformatory institutions and agencies belonging to the city; the use of all recreational facilities of the city, including parks and playgrounds. He shall have charge of the inspection and supervision of all public amusements and entertainments.

**CITY HEALTH OFFICER.**

Sec. 68. Be it further enacted, etc., Subject to the supervision and control of the City Manager in all matters, the City Health officer shall enforce all laws, ordinances and regulations relative to the preservation and promotion of the public health, the prevention and restriction of diseases, the prevention, abatement and suppression of nuisances and the inspection and supervision of the production, transportation, storage and sale of foods and foodstuffs, and shall cause an accurate system of vital statistics to be kept. In time of epidemic or threatened epidemic he may enforce such quarantine and isolation regulations as are appropriate to the emergency. He shall enforce all ordinances and laws relating to health and shall perform all duties and have all powers provided by general laws relative to the public health to be exercised in municipalities by health officers; provided that the regulations affecting public health, additional to those established by

general law and for the violation of which penalties are imposed, shall be enacted by the Commission and enforced as provided herein, except in cities whose Board of Health is now by law wholly or in part appointed by the Governor or other State authorities, or elected under special legislation. Such Boards or Departments of Health shall be excepted from the provisions of this Act and its status and control shall be determined solely by the law under which it now exists.

**DUTIES OF PROBATION AND CITY HEALTH OFFICERS.**

Sec. 69. Be it further enacted, etc., Either or both the Probation Officer and the Health Officer shall provide for the study and research into causes of poverty, delinquency, crime, disease and other social problems in the community, and shall by means of lectures and exhibits promote the education and understanding of the community in those matters which affect the public welfare.

**CHIEF OF POLICE.**

Sec. 70. Be it further enacted, etc., Subject to the supervision and control of the City Manager in all matters, the Chief of Police shall have exclusive control of the stationing and transfer of all policemen and other officers and employees constituting the police force, under such rules and regulations as the City Manager may prescribe. The police force shall be composed of a chief of police and such officers, patrolmen and other employes as the City Manager may determine. In case of riot or emergency, the City Manager may appoint additional patrolmen and officers for temporary service who need not be in the classified service.

**AUTHORITY TO ACT AS SPECIAL POLICE, ETC.**

Sec. 71. Be it further enacted, etc., No person shall act as special policeman, special detective or other special police officer for any purpose whatsoever, except upon written authority from the City Manager. Such authority shall be exercised only under the direction and control of the Chief of Police and for a specified time.

**FIRE CHIEF.**

Sec. 72. Be it further enacted, etc., Subject to the supervision and control of the City Management in all matters, the fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees constituting the fire force under such rules and regulations as the City Manager may prescribe. The fire force shall be composed of a chief and such other officers, firemen and employes as the City Manager may determine. In case of riot, conflagration or emergency the City Manager may appoint additional firemen and officers for temporary service who need not be in the classified service.

**RULES AND REGULATIONS FOR POLICE AND FIRE DEPARTMENTS.**

Sec. 73. Be it further enacted, etc., (a) The City Manager shall prescribe rules and regulations for the supervision, inspection, regulation and management of the Police and Fire Departments. Such regulations shall include provisions specifically prohibiting immorality and intemperance in the use of alcoholic liquor or beverages by members of these departments at all times and the total abstinence therefrom while on duty.

Any violation of these requirements by any fireman or policeman shall be an absolute disqualification for further employment in either of these departments.

(b) The Chief of Police and Fire Chief shall have the right to suspend any of the officers or employes in their respective divisions, who may be under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authorities or for any other just and reasonable cause. If any officer or employee be suspended, as herein provided, the chief of the division concerned shall

forthwith in writing certify the fact, together with the cause for the suspension, and render judgment thereon, which judgment, if the charge be sustained, may be suspension, reduction in rank, or dismissal, and such judgment in the matter shall be final, except as may be provided in the rules and regulations of the Civil Service Board. The City Manager in any such investigation shall have the same power to administer oath and secure the attendance of witnesses and the production of books and papers as is conferred upon the Commission.

**SUSPENSION OF CHIEF OF POLICE AND FIRE CHIEF.**

Sec. 74. Be it further enacted, etc., The City Manager shall have the exclusive right to suspend the Chief of Police and Fire Chief for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. If either of such chiefs be so suspended the City Manager shall forthwith certify the fact, together with the cause of suspension, to the Commission, who within five (5) days from the date of receipt of such notice, shall proceed to hear such charge and render judgment thereon, which judgment shall be final.

**RELIEF OF POLICE AND FIREMEN OUT OF FUNDS.**

Sec. 75. Be it further enacted, etc., The Commission may provide by general ordinance for the relief, out of the police or fire funds, of members of the divisions of police and fire, temporarily or permanently disabled in the discharge of their duty. Nothing herein shall impair, restrict or repeal any provision of general law authorizing the levying of taxes to provide for firemen, police and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds.

**CITY ACCOUNTANT.**

Sec. 76. Be it further enacted, etc., The City Accountant shall have direct supervision over all the accounts of all departments and offices of the city. He shall require, as frequently as needed or as required by the Manager or Commissioners, departmental reports of money, receipts and disposition thereof; and shall require of each, in such form as may be prescribed, current financial and operating statements, exhibiting each transaction and cost thereof.

**VACANCIES IN HIS OFFICE.**

Sec. 77. Be it further enacted, etc., Upon the death, resignation, removal or expiration of the term of any officer, the City Accountant shall examine the accounts of such officer and report his finding to the City Manager.

**ACCOUNTING PROCEDURE.**

Sec. 78. Be it further enacted, etc., Accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship, and disposition of values, including cash receipts and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year upon the finances of the city and in relation to each department of the city government, including distinct summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year upon the finances of the city and in relation to each department of the city government, including distinct summaries and schedules for each utility owned and operated.

**DUTIES OF CITY ACCOUNTANT.**

Sec. 79. Be it further enacted, etc., The City Accountant shall have charge of the preparation and certification of all special assessments for public improvements; the mailing of notices of such assessment to property owners, and all other duties connected therewith.

**WARRANTS, HOW AUTHORIZED.**

Sec. 80. Be it further enacted, etc., No warrant for the payment of any claim shall be issued by the City Accountant unless such claim shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the City Manager, before issuing such voucher and supplies and materials delivered, or work done, shall be duly inspected and certified to by the head of the proper department or office, or by a person designated by him. The head of each department or office shall require proper time reports from all service rendered to be certified by those having cognizance thereof, to serve as a basis for the preparation of payroll vouchers.

**LIABILITY OF HEADS OF DEPARTMENTS.**

Sec. 81. Be it further enacted, etc., Each director of a department and his surety shall be liable to the city for all loss or damage sustained by the city by reason of the negligent or corrupt approval of any claim against the city in his department. Prior to drawing of a warrant for the payment of any voucher or claim, the City Accountant may at his discretion cause an investigation or inspection to be made by a person designated by him and shall have a power to summon persons and examine them under oath or affirmation, which oath or affirmation he may administer.

**CITY TREASURER.**

Sec. 82. Be it further enacted, etc., The City Treasurer shall be custodian of all public money of the city, all its departments, and all other public money coming into his hands as City Treasurer. He shall keep and preserve such moneys in the place or places determined by ordinance or by the provision of any law applicable thereto.

The City Treasurer shall once every twelve months, and before the 15th day of August of each year, prepare a roll of all property, real, personal and of every description, in the city subject to taxation, which roll shall contain the names of the owners of said property and a correct description thereof, and in separate columns the rates of the several taxes levied and assessed by the Commission or by other law, and the amounts of each of said taxes. The valuation of all said property shall be taken from the assessment rolls of the Parish of .....

The City Treasurer shall collect all taxes, collect all fees and issue all licenses and collect all dues which may be imposed by the Commission or by law, and shall furnish to the City Accountant and to the City Manager and to the City Commission on the first day of each month, a statement of all moneys collected by him during the previous month. He shall keep a list of all persons that may be subject to a license tax, and shall have the right to enforce the payment of all licenses and taxes due to the city, and is hereby vested with the same powers that are granted Sheriffs and Tax Collectors by the General Laws of the State relating to tax matters. He shall be vested with and perform such other functions as may be from time to time prescribed by the Commission.

The City Treasurer shall not pay any salaries or compensation for services to any person except the City Commissioners and the City Manager and the department heads, unless the payroll or account for such salary or compensation shall bear the certificate of the City Manager or department head, that the persons named herein have been appointed or employed and are performing service in accordance with the provisions of this Act.

Sec. 84. Be it further enacted, etc., Except as otherwise provided in this Act, the City Treasurer shall under the supervision of the City Manager, collect, receive and disburse all public money of the city upon warrant issued by the City Accountant and shall also receive and disburse all other public money, coming into his hands as City Treasurer, in pursuance of such regulations as may be prescribed by the authorities having lawful control over such funds.

**DUTIES OF CITY TREASURER.**

Sec. 85. Be it further enacted, etc., As herein provided, until such a time as the City Commission shall deem the appointment of a purchasing agent essential to the efficient operation of the affairs of the city, the City Manager shall perform all the duties and functions hereinafter prescribed for the said purchasing agent.

The City Purchasing Agent shall, in manner provided by ordinance, purchase all supplies for the city, sell all real and personal property of the city not needed or unsuitable for public use or what may have been condemned as useless by the director of a department. He shall have charge of such storerooms and storehouses of the city as may be provided by ordinance, in which shall be stored all supplies and materials purchased by the city and delivered directly to the various departments, and he shall inspect all supplies delivered to determine quality and quantity and conformance with specifications, and no voucher shall be honored unless the accompanying invoice shall be indorsed as approved by the City Purchasing Agent.

**PURCHASING AGENT.**

Sec. 86. Be it further enacted, etc., The City Purchasing Agent may require from the director of each department at such times as contracts for supplies are to be let, a requisition for the quantity and kind of supplies to be paid for from the appropriations of the department.

Upon the certification that funds are available in the proper appropriations such goods shall be purchased and shall be paid for from funds in the proper department for that purpose. However, this procedure shall not prejudice the City Purchasing Agent from purchasing goods to the credit of the store's account, to be furnished the several departments on requisition, goods so furnished to be paid for by the department furnished therewith by warrant made payable to the credit of the store's account.

The City Purchasing Agent shall not furnish any supplies to or purchase any supplies for any department unless there be to the credit of such department an available appropriation balance in excess of all unpaid obligations sufficient to pay for such supplies.

Before making any purchase, or sale, the City Purchasing Agent shall give opportunity for competition, all proposals to be under precise specifications, and under such rules and regulations and with such funds as the Commission shall establish. Each order of purchase or sale to be approved and countersigned by the City Manager or his deputy, or, if the City Manager be acting as the purchasing agent, by the Chairman of the Commission.

**REQUISITIONS TO PURCHASING AGENT.**

Sec. 87. Be it further enacted, etc., In cases of emergency purchases may be made without competition, if a sufficient appropriation has theretofore been made against which such purchases may be lawfully charged. In such cases a copy of the order issued shall be filed with the City Purchasing Agent, together with a certificate by the head of the department, stating the facts of the emergency. A copy of this certificate shall also be attached to and filed with the voucher for the supplies.

**EMERGENCY PURCHASES.**

Sec. 88. Be it further enacted, etc., No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the Commission, or be authorized by any officer of the city, unless the City Treasurer first certify to the Commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified

shall not thereafter be considered unappropriated until the city is discharged from the contract, agreement or obligation.

**FORMALITY REQUIRED FOR CONTRACT.**

Sec. 89. Be it further enacted, etc., All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation, from taxes or assessments, or from sales or services, products or by-products, or from any city undertaking, fees, charges, accounts and bills receivable or other credits in the process of collection; and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property and moneys to be derived from lawfully authorized bonds, certificates or other evidences of debts sold and in process of delivery shall, for the purposes of such certificate, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

**FUNDS IN TREASURY.**

Sec. 90. Be it further enacted, etc., All public advertising or publication necessary under the provisions of this Act shall be in a daily newspaper of general circulation within the city, and shall be done by contract or in a journal published by the city as may be determined by ordinance. If such contract shall be with a newspaper it shall be entered into only after opportunity has been given for competition under such rules and regulations as the Commission may establish and for a term of not longer than one year. The newspaper carrying such publication shall be paid per inch of space used at the lowest and best rate offered, not exceeding that which it receives from commercial display advertising for quantity of space used.

**PUBLIC ADVERTISING.**

Sec. 91. Be it further enacted, etc., No contract involving an expenditure in excess of five hundred dollars (\$500) shall be awarded except upon the approval of the City Manager and the Commission.

**CONTRACTS IN EXCESS OF \$500.**

Sec. 92. Be it further enacted, etc., In no instance shall contracts be let either as a whole, or in aggregate, if bids for parts of the work are taken, which exceed the estimate for the improvement contemplated.

**VOID CONTRACTS.**

Sec. 93. Be it further enacted, etc., All contracts, agreements or other obligations entered into and all ordinances passed, resolutions and orders adopted, contrary to the provisions of the preceding sections, shall be void.

**CIVIL SERVICE SYSTEM.**

Sec. 94. Be it further enacted, etc., The Commission shall and it is hereby authorized and empowered to organize and effect, when in its opinion the same shall become necessary or advisable, a system of civil device for operation over the employees and officials of the city, and to that end the City Commission is hereby empowered to designate and appoint a Civil Service Board and to adopt and promulgate such rules and regulations governing the same as shall in its opinion be proper.

The compensation of the Board shall be determined by the Commission and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this Act.

**PUBLIC SCHOOLS.**

Sec. 95. Be it further enacted, etc., Wherever municipalities of the State of Louisiana adopting this form of municipal government and incorporating under the provisions of this Act, do, by virtue of existing laws, own

or operate, or both, their own system of public schools, under the jurisdiction of local authorities, created and empowered by existing law, or in any way separate or apart from the parochial or State school systems, as to such cities nothing contained herein shall be deemed, construed or held to in any way abrogate, annul, impair or affect such school system or its legal status, but the same shall continue under and by virtue of the law or laws heretofore applicable to the same, so long as those laws are not repealed or amended, which it is not the intention of any provision herein so to do. As to such municipalities the provisions hereof relative to public education or to public schools shall be deemed and held as not written.

**MUNICIPAL COURTS.**

**Sec. 96.** Be it further enacted, etc., Wherever municipalities of the State of Louisiana adopting this form of municipal government and incorporating under the provisions of this Act maintain or fall within the jurisdiction of municipal, police, magistrates or Justice of the Peace Courts, under and by virtue of general or special laws or particular provisions of general or special municipal charters, such courts shall continue under and by virtue of such laws, and nothing contained herein shall be deemed, construed or held to impair, repeal or in any manner affect the status of such courts or the validity or existence of any such laws, which are hereby ratified and affirmed and declared to be and to remain in full force and effect.

**CONTRACTS FOR LOCAL IMPROVEMENTS.**

**Sec. 97.** Be it further enacted, etc., the Commission shall have power by ordinance to provide for the construction, reconstruction, repair and maintenance by contract or directly by the employment of labor, of all things in the nature of local improvements, and to provide for the payment of any part of the cost of any such improvement by levying and collecting special assessments upon abutting, adjacent and contiguous or other specially benefited property. The amount assessed against the property specially benefited to pay for such local improvements shall not exceed the amount of benefits accruing to such property.

**ASSESSMENTS FOR PUBLIC IMPROVEMENTS.**

**Sec. 98.** Be it further enacted, etc., Special assessments upon the property deemed benefited by a public improvement shall be by one of the following methods:

- (a) By a percentage of the tax value of the property assessed;
- (b) In proportion to the benefits which may result from the improvement;
- (c) By the foot frontage of the property bounding or abutting upon the improvement.

**METHODS OF SUCH ASSESSMENTS.**

**Sec. 99.** Be it further enacted, etc., When it is deemed necessary to make public improvement to be paid for in whole or in part by special assessment, the Commission shall declare the necessity therefor by resolution, and such resolution shall state the method of assessment, and the mode of payment and the number of annual installments, together with the total estimated cost of the improvement. Such resolution shall be certified to the City Accountant, who shall thereupon proceed to make an assessment report in accordance with the method of assessment provided in the resolution, which report shall be filed with the Commission and shall show the lots and lands assessed, and the amount of the assessment as to each, together with the amount of benefit or damage to each lot or parcel of land to be assessed, with an estimate of the life of the improvement. The number of annual installments in which the assessment shall be paid, shall be fixed, but in no case shall they be greater in number than the estimated years of the life of the improvement.

**PLANS, SPECIFICATIONS FOR IMPROVEMENTS.**

Sec. 100. Be it further enacted, etc., At the time of the passage of the resolution hereinbefore provided, there shall be on file in the office of the City Engineer, plans, specifications, estimates and profiles of the proposed improvements, giving all information necessary; and such plans, specifications, estimates and profiles shall be open to the inspection of the public.

**PROCEDURE FOR ASSESSMENT OF PROPERTY.**

Sec. 101. Be it further enacted, etc., Upon the filing of such report the City Accountant shall cause written notice to be served upon the owner of each lot or parcel of land to be assessed, or otherwise affected, or upon the persons in whose names the same may be assessed for taxation upon the tax rolls. Said notice shall be served and return made by a person designated by the City Manager in the manner provided for service of summons in civil actions; and, as to all non-residents and persons who cannot be found, service shall be made by publication of such notice at least once in a daily newspaper of general circulation in the city. Said notice shall contain a statement of the character of the proposed improvement, the fact that such assessment report has been filed with the Commission the rate, of such assessment, the number of installments, the total estimate of the cost of the improvement, the amount of benefits or damage to such lot or parcel of land, and shall state a time and place when complaints and claims will be heard before the Board of Revision of Assessments.

**BOARD OF REVISION.**

Sec. 102. Be it further enacted, etc., the City Manager, the City Attorney and the City Engineer shall constitute the Board of Revision of Special Assessments. It shall organize and meet at times and places to be provided by its rules, and shall hear all claims and objections as to the character of all improvements to be paid for in part or in whole by special assessments, the necessity therefor and the equity of the assessments as provided in the assessment report. A majority of those constituting the Board of Revision of Special Assessments shall have power to determine all complaints and objections submitted to it; and, as to each improvement, the Board shall, after such hearing, approve, amend, equalize, or adjust the assessment report in every detail, and shall report its findings as to the necessity for the improvements and any amendment it directs in the assessments, the estimate of benefit and allowance of damages to the Commission.

**CLAIMS FOR PROPERTY DAMAGED BY IMPROVEMENT.**

Sec. 103. Be it further enacted, etc., An owner of a lot of land bounding and abutting upon a proposed improvement, claiming that he will sustain damage by reason of the improvement, shall present such claim to the Board of Revision of Special Assessments within two weeks after the service of notice or the completion of publication hereinbefore provided. Such claim shall be in writing and shall set forth the amount of damages claimed, with a general description of the property with respect to which it is claimed the damage will accrue, and shall be filed with the Board of Revision of Special Assessments. Any owner who fails so to do shall be deemed to have waived such damages, and shall be barred from filing a claim or receiving damage therefor. This provision shall apply to all damage which will obviously result from the improvement, but shall not deprive the owner of his right to receive or recover damages arising without his fault, from acts of the city or of its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the right of damages, if any, shall follow the ownership of the land without other transference of the claim. The Board of Revision of Special Assessments shall report to the Commission all such claims for damages filed with it.

(b) After the passage of this ordinance levying the final assessment no property owner shall be heard to complain thereon because of any lack of or defect in his notice or the method of procedure followed in making the said assessment, or because of any other technical reason and after the

said time no property owner shall have the right to interfere with or hold up the progress of the proposed improvement by injunction or otherwise, nor to bring any action in relation thereto, other than to test the validity of the amount of his own assessment.

**LEVY OF ASSESSMENT.**

Sec. 104. Be it further enacted, etc., Whenever the Board of Revision of Special Assessments shall have made its final report to the Commission of any improvement, the Commission, if it determine that the improvements shall proceed, shall pass an ordinance levying the assessment as reported by the Board of Revision of Special Assessments, and directing that the improvement proceed. In such ordinance it shall be sufficient to describe the lots and land abutting upon the improvement and to be assessed therefor, as all the lots and lands bounding and abutting upon such improvements between and including the terminal of the improvement; and in describing lands which do not abut, it shall be sufficient to describe the lots by their appropriate lot numbers, and the lands by meters and bounds; and this rule of description shall apply in all proceedings in which lots and lands are to be charged with special assessments.

**SPECIAL ASSESSMENT, HOW PAYABLE.**

Sec. 105. Be it further enacted, etc., Special assessments shall be payable by the owners of the property assessed at the time stipulated in the ordinance, and shall be a lien from the date of the assessment upon the respective lots and parcels of land assessed, enforceable in the manner provided by laws of the State of Louisiana.

**ASSESSMENT OF INJURY CAUSED BY IMPROVEMENTS.**

Sec. 106. Be it further enacted, etc., At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, the Commission shall determine whether the claims for damage so filed shall be allowed and paid or judicially inquired into either before commencing or after the completion of the proposed improvement. If it decide that the damages shall be assessed before commencing the improvement, the City Attorney shall then make a written application to the District Court, or a judge therefor in vacation, or any other court having jurisdiction, for the summoning of a jury to determine such damages, and the judge shall direct that a jury be summoned as is provided for the appropriation of property, and fix the time and place for inquiry into and assessment of such damages, which inquiry and assessment shall be confined to such claims.

**SAME SUBJECT.**

Sec. 107. Be it further enacted, etc., When the Commission determines to assess the damages after the completion of the improvement for which a claim for damages has been filed as hereinabove provided, the City Attorney shall within ten (10) days after the completion of the improvement make a written application as hereinabove provided in the case of the ascertainment of damages before the improvement was made, and the same proceedings shall be had as provided in the next preceding section.

**SUIT FOR DAMAGES.**

Sec. 108. Be it further enacted, etc., A person who claims damages arising from any cause shall not commence suit therefor against the city until he shall have filed a claim for such damages, with the City Manager and sixty (60) days shall have elapsed thereafter. This provision shall not apply to an application for an injunction or other proceedings to which it may be necessary for such applicant to resort in case of urgent necessity.

**CONTRACTS FOR IMPROVEMENTS.**

Sec. 109. Be it further enacted, etc., When the Commission shall have passed an ordinance directing that an improvement be made, to be paid for

in whole or in part by special assessments, the City Manager shall, as provided by ordinance, either directly by the employment of labor or by entering into a contract therefor, cause the improvement to be made.

#### RULE FOR ASSESSMENT OF PROPERTY.

Sec. 110. Be it further enacted, etc., When special assessments are levied by the percentage of tax value of the property assessed or by the foot frontage of the property abounding and abutting upon the improvement, and there are lands subject to such assessment which are not assessed for taxation, the City Engineer shall fix, for the purpose of such assessment, the value of such lots as they stand and of such lands at depths as the City Engineer considers a fair average of the depth of lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood. Where lands are not subdivided into lots, but are assessed for taxation, the City Engineer shall fix the value and the depth in the same manner; but the above rule shall not apply in making a special assessment according to benefits.

#### ISSUE OF NOTES IN ANTICIPATION OF COLLECTIONS.

Sec. 111. Be it further enacted, etc., (a) When bonds or notes are issued in anticipation of the collection of assessments, the interest thereon shall be treated as the part of the cost of the improvements for which assessments may be made.

(b) The Commission shall have the right by ordinance to provide for the payment of property owners of their assessments for local improvements in annual installments of one, two, three, four and five years and to authorize the advertisement for bids for such work or itself cause it to be done, as herein elsewhere provided, upon such terms of deferred payment and for such purpose the city may contract for such improvements payable partly in cash and the balance in one, two, three, four and five years, or wholly in deferred payments, as the Commission may determine, or it may itself cause the work to be done, and in either event it may issue its notes, bonds or other evidences of debt in payment therefor, the same to be secured by the liens upon the property subject to such assessments as herein elsewhere provided.

The interest on such deferred payments shall be six per cent (6%) per annum, and the liens on such property shall remain in full force and effect for both principal and interest due until final payment thereof and the contractor or other holder or owner of such evidences of debt shall be subrogated to such liens and privileges.

#### LIMITATION IN ASSESSMENTS.

Sec. 112. Be it further enacted, etc., The Commission shall limit all assessments to the special benefits conferred upon the property assessed, and in no case shall there be levied on any lot or parcel of land any assessments for any or all purposes within a period of five years in excess of thirty-three and one-third per cent (33 1/3%) of the actual value thereof after the improvement is made. Assessments levied for the construction of main sewers or drains shall not exceed the sum that in the opinion of the Commission would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith.

#### APPORTIONMENT OF COSTS, CITY'S PART.

Sec. 113. Be it further enacted, etc., (a) The city shall pay such part of the costs and expenses of improvements for which special assessments are levied as the Commission deems just, which shall not be less than one-fiftieth (1-50) of all such cost and expense; and in addition thereto the city shall pay the cost of intersections. The Commission may provide for the payment of the city's portion of all such improvements by the issuance of bonds or notes, or other evidences of debt, therefor, and may levy taxes in

addition to all other taxes authorized by law, to pay such evidences of debt and the interest thereon, subject only to the limitations and in the manner and form prescribed by the Constitution of Louisiana.

(b) Nothing contained in this Act shall the effect be construed so as to prevent the city from making such improvements, changes, alterations or betterments to the municipally owned public utilities or to the streets or other places occupied by such utilities on such terms, in whatever manner and by whatever method the Commission shall deem proper and necessary, subject to the assessment provision of this Act only when property owners are called on to pay any part of the cost thereof.

(c) In making assessments for local improvements the city shall be considered and treated as any other property owner as to such lots or lands owned or occupied by it, including that portion of the streets used by the municipal street railway.

**COST OF REPLACING IMPROVEMENT.**

Sec. 114. Be it further enacted, etc., the Commission may provide in whole or in part the cost of replacing any improvement existing in a street at the time of the adoption of this Act, by levying special assessments as hereinbefore provided; but any assessment for such replacement in less than fifteen (15) years from the date of a prior assessment for the improvement to be replaced shall be limited to a sum not in excess of fifty per cent (50%) of the cost of such replacement.

**ORDINANCE MUST CONTAIN ESTIMATE.**

Sec. 115. Be it further enacted, etc., Every ordinance passed subsequent to the adoption of this Act, providing for an improvement to be paid for in whole or in part by special assessments shall contain an estimate by the City Engineer of the life of the proposed improvement.

**SURPLUS OF ASSESSMENT OVER COST OF IMPROVEMENT.**

Sec. 116. Be it further enacted, etc., Upon the completion of any improvement by the City Manager shall rebate to the then owner of the property which shall have been assessed to pay for such improvement, any surplus or excess remaining unexpended for the purpose which such assessment was made, in the event of there being a deficit in the fund provided for the making of any such improvement, the City Manager shall report to the Commission a supplementary assessment within the limitations hereinbefore provided, which supplementary assessment shall be made by ordinance of the Commission and certified for collection as is provided in the case of original assessments.

**WATER, SEWER, GAS, ETC., CONNECTIONS.**

Sec. 117. Be it further enacted, etc., the City Manager shall have authority to compel the making of sewer, water, gas and other connections whenever, in view of contemplated street improvements or as a sanitary regulation, sewer, water, gas and other connections should in his judgment be constructed. He shall cause written notice of his determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person designated by the City Manager in the manner provided for the service of summons in civil actions. Non-residents of the city, or persons who cannot be found, may be served by one publication of such notice in a daily newspaper of general circulation in the city. The notice shall state the time within which such connections shall be constructed; and if they be not constructed within the said time, the city may cause the work to be done, and the cost thereof, if any, together with a penalty of five per cent (5%) assessed against the lots and lands for which such connections are made. Said assessments shall be certified and collected as other assessments for street improvements.

**CONSTRUCTION AND REPAIR OF SIDEWALKS.**

Sec. 118. Be it further enacted, etc., the Commission may by resolution declare that certain specified sidewalks, curbings, or gutters shall be constructed or repaired. Upon the passage of such resolution the City Manager shall cause written notice of the passage thereof to be served upon the owner, or agent of the owner, of each parcel of land abutting upon such sidewalk, who may be a resident of the city, in the manner provided by law for the service of summons in civil actions. He shall return a copy of the notice with the time and manner of service endorsed thereon, signed by the person serving it, to the City Engineer, who shall file and preserve such return. For the purpose of such service, if the owner of any such property be not a resident of the city, any person charged with the collection of rent, or the payment of taxes on such property, or having control thereof in any way, shall be regarded as the agent of the owner, and service upon such person shall have the like force and effect as though personal service were made upon the owner thereof. If it appears in such return, however, that the owner is a non-resident, or that neither such owner nor agent could be found, one publication of a copy of the resolution in a daily paper of general circulation in the city shall be deemed sufficient notice to such owner.

**SAME SUBJECT, WORK DONE BY CITY.**

Sec. 119. Be it further enacted, etc., If sidewalks, curbings or gutters be not constructed or repaired within fifteen (15) days from service of the notice provided for in the preceding section, or the completion of the publication thereof, the City Manager may proceed by direct employment of labor, or by contract to carry out the said construction or repair at the expense of the owner, as in the case of other improvements, and all such expense shall be reported by the City Manager to the Commission. The Commission shall thereupon, by ordinance, assess the cost and expense thereof upon the owner or owners of all the property bounding or abutting thereon, and such assessments shall be collected in the same manner as other assessments, with a penalty of five per cent (5%) and interest for failure to pay at the time fixed by the assessment resolution.

**AUTHORITY OF COMMISSION TO BORROW MONEY.**

Sec. 120. Be it further enacted, etc., The Commission may at any time borrow money and authorize the issuance of notes, bonds, certificates and other evidences of debt therefor in anticipation of the collection of assessments, levied for the purpose of paying the cost of constructing or repairing sidewalks, curbings and gutters which are to be or have been constructed by the City Manager, upon the failure of the owners of the property to construct or repair the same, pursuant to notice as hereinbefore provided, and under the terms and conditions and carrying the same rights and privileges as hereinbefore provided for in the case of special assessments.

**PUBLIC IMPROVEMENTS, HOW MADE.**

Sec. 121. Be it further enacted, etc., Public improvements of all kinds may be made by the appropriate department, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let after competitive bidding, either for a gross price, or upon a unit basis for the improvement, or by contract containing a guaranteed maximum and stipulating that the city shall pay within such maximum cost the cost of labor and materials, plus a fixed percentage of profit to the contractor. The Commission, by ordinance, shall determine by which of the foregoing methods improvements shall be made. Contracts may provide a bonus per day for completion of the contract prior to a specified date, and liquidated damages to the city to be exacted in the like sum for every day of delay beyond a specified date.

**ALTERATION, ETC., OF CONTRACT.**

Sec. 122. Be it further enacted, etc., When it becomes necessary in the prosecution of any work or improvement under contract, to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Commission. No such order shall be effective until the price to be paid for the work and material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Commission.

**LAYING OUT BY, FOR STREETS—MAP.**

Section 123. Be it further enacted, etc., An owner of lots or grounds within the city who subdivides or lays them out for sale, shall cause to be made an accurate map or plat of such subdivision, describing with certainty all grounds laid out, or granted for streets, alleys, ways, commons or other public uses. Lots sold or intended for sale shall be numbered by progressive number, or described by the square in which situated, and the precise length and width shall be given of each lot sold or intended for sale. Such map or plat shall be subscribed by the owner and lien holders, acknowledged before an officer authorized to take the acknowledgement of deeds, approved by the City Manager and recorded in the office of the Parish Recorder.

**WHAT CONSTITUTES CONVEYANCE.**

Sec. 124. Be it further enacted, etc., The map or plat so recorded shall thereupon be a sufficient conveyance to vest in the city the fee of the parcel of land designated or intended for streets, alleys, ways, commons, or other public use to be held in the corporate name in trust to and for the uses and purposes in the instrument set forth, expressed, designated or intended.

**CITY ENGINEER IS SUPERVISOR OF PLATS.**

Sec. 125. Be it further enacted, etc., The City Engineer shall be the supervisor of plats of the city. He shall provide regulations governing the platting of all lands so as to require all streets and alleys to be of proper width, and to be co-terminous with adjoining streets and alleys, and otherwise to conform to regulations prescribed by him. Whenever he shall deem it expedient to plat any portion of territory within the city limits, in which the necessary or convenient streets or alleys have not already been accepted by the city so as to become public streets or alleys, or when any person plats any land within the corporate limits or within three miles thereof, the supervisor of plats shall, if such plats are in accordance with the rules as prescribed by him, endorse his written approval thereon. No plat shall be entitled to record in the recorder's office of the parish without such written approval so endorsed thereon.

**STREETS AND ALLEYS.**

Sec. 126. Be it further enacted, etc., No street or alleys, except those laid down on such plat and bearing the approval of the supervisor of plats as hereinbefore provided, shall subsequently in any way be accepted as public streets, or alleys, by the city, nor shall any public funds be expended in the repair or improvement of streets and alleys subsequently laid out and not on such plat. This restriction shall not apply to a street or alley laid out by the city, nor to streets, alleys or public grounds laid out on a plat or with the approval of the supervisor of plats.

**CARE, SUPERVISION OF STREETS.**

Sec. 127. Be it further enacted, etc., The Commission shall provide by ordinance for the care, supervision, control and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the city, and shall cause them to be kept open, in repair, and free from nuisance.

**OPENING STREETS, ETC.**

Sec. 128. Be it further enacted, etc., When it deems necessary, the Commission may cause any street, alley or public highway to be opened, straightened, altered, diverted, narrowed, widened or vacated.

**WHAT DEEMED A PUBLIC STREET.**

Sec. 129. Be it further enacted, etc., No street or alley hereafter dedicated to public use by the proprietor of ground in the city shall be deemed a public street or alley, or under the care or control of the Commission, unless the dedication be accepted and confirmed by ordinance passed for such purpose, or unless the provisions hereof relating to subdivisions shall have been complied with.

**VACATING ANY STREET.**

Sec. 130. Be it further enacted, etc., The Commission in vacating any street or part of street, or changing the names of any street, may include in one ordinance the change of name or the vacation or narrowing of more than one street, avenue or alley, but before vacating any street or part thereof, or narrowing any street, the Commission shall first pass a resolution declaring its intention so to do. The City Manager shall cause notice of such resolution to be served and return made in the manner that service of summons is required to be made in civil actions upon all persons whose property abuts upon the portion of the street affected by the proposed vacation or narrowing, and by publication once in one daily newspaper of general circulation in the city as to all the persons who cannot be personally served. Said notice shall state the time and place at which objections can be heard before the Board of Revision of Special Assessments. Upon the report by the Board of Revision of Special Assessments approving the proposed vacation or narrowing, the Commission may by ordinance declare such vacating or narrowing, and such order of the Commission vacating or narrowing a street or alley which has been dedicated to public use by the proprietor shall, to the extent of which it is vacated or narrowed, operate as a revocation of the acceptance thereof by the Commission, but the right of way and easement therein of any lot owner shall not be impaired thereby.

**EXPROPRIATION OF PROPERTY.**

Sec. 131. Be it further enacted, etc., Property within the corporate limits of the city may be expropriated for any public or municipal purpose, and to the full extent of the authority granted by the Constitution of the State, such expropriation shall be made as herein provided. By such appropriation the city may acquire a fee simple title or any less estate, easement or use. Expropriation of property located outside the corporate limits of the city shall be made according to the requirements of, and as provided by general law.

**PROCEDURE FOR EXPROPRIATION.**

Sec. 132. Be it further enacted, etc., When it is deemed necessary to expropriate property the Commission shall adopt a resolution declaring such intent, defining the purposes of the expropriation, setting forth a pertinent description of the property, and the estate or interests therein desired to be expropriated.

**NOTICE TO PARTIES IN INTEREST.**

Sec. 133. Be it further enacted, etc., Immediately upon the adoption of such resolution, the City Manager shall cause written notice thereof to be given to the owner, person in possession thereof, or having an interest of record in, every piece of land sought to be expropriated, or his authorized agent; and such notice shall be served by a person designated for the purpose, and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a daily newspaper of general circulation in the city.

and the Commission may thereafter pass an ordinance directing such expropriation to proceed.

**AGREEMENT OUTSIDE COST.**

Sec. 134. Be it further enacted, etc., After such notice the Commission, if it can agree with the owner upon the price to be paid for such property, may, by ordinance, order the purchase thereof.

**WHERE AGREEMENT NOT MADE—SUIT FILED.**

Sec. 135. Be it further enacted, etc., If the Commission shall be unable to agree with the owner upon the purchase price it may thereafter pass an ordinance directing such expropriation to proceed, and thereupon the City Attorney shall make application to the District Court or to a judge thereof in vacation, or to any court of competent jurisdiction, which application shall describe as correctly as possible the land or other property to be expropriated, the interest or estate therein to be taken, the object for which the land is desired, and the name of the owner of each lot or parcel thereof, and all the subsequent proceedings with regard thereto shall be in the manner provided by general law for the expropriation of property by municipal corporations in this State.

**CONDUCT OF PUBLIC UTILITIES.**

Sec. 136. Be it further enacted, etc., The Commission may by ordinance grant permission to any individual, company or corporation to construct and operate a public utility in the streets and public grounds of the city. The ordinance granting any such franchise shall be subject to petition and referendum as specified herein. No franchise shall be considered an emergency measure. No franchise or grant or renewal thereof for the construction and operation of a public utility shall be granted for a term longer than thirty (30) years.

**RENEWAL OF GRANTS.**

Sec. 137. Be it further enacted, etc., The Commission may, by ordinance, renew any grant for the construction or operation of any utility, at its expiration subject to petition and referendum as before stated.

**EXCLUSIVE FRANCHISES.**

Sec. 138. Be it further enacted, etc., No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before one year prior to its expiration.

**RENEWAL OF FRANCHISE, CONDITIONS.**

Sec. 139. Be it further enacted, etc., The Commission shall in any ordinance granting or renewing any franchise to construct and operate a public utility, prescribe the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, the manner in which the streets and public grounds shall be used and occupied; and any other terms and conditions conducive to the public interest.

**RIGHT OF CITY TO TERMINATE FRANCHISES.**

Sec. 140. Be it further enacted, etc., All such grants and renewals thereof shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, as may be provided in the ordinance making the grant or renewal, used in or useful for the operation of the utility, at a price fixed in the ordinance or to be fixed in the manner provided by the ordinance making the grant or renewal of the grant. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode, but all such methods of acquisition shall be alternative to the power of purchase, reserved in the grant or renewal as hereinbefore provided. Upon acquisition

by the city of the property of any utility by purchase, condemnation or otherwise, all grants or renewals shall at once terminate.

**PRICE OF PROPERTY TO WHICH FRANCHISE IS GIVEN.**

Sec. 141. Be it further enacted, etc., No ordinance making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

**POWER OF AUTHORITY OVER PUBLIC UTILITIES.**

Sec. 142. Be it further enacted, etc., The Commission may, by ordinance grant to any individual, company or corporation operating a public utility the right to extend the appliances and service of such utility, subject to petition and referendum as before stated. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights in favor of the city, applicable to the property, of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made or any renewal thereof.

**CONSENT OF OWNER OF LAND REQUIRED.**

Sec. 143. Be it further enacted, etc., No consent of the owner of the property abutting on any highway or public ground shall be required for the construction, extension, maintenance, or operation of any public utility by original grant or renewal, unless such public utility is of such a character that its construction or operation is an additional burden upon the rights of the property owners in such highways or public grounds.

**SPACE FOR PUBLIC UTILITIES.**

Sec. 144. Be it further enacted, etc., The Commission shall at all times control the distribution of space, in, over, under or across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the Commission to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues and highways of the city, and shall in the opinion of the Commission be necessary in the public interest.

No franchise or renewal thereof shall ever be granted or made so as to impair, or in any manner deprive the city of the right to regulate the terms, conditions and limitations thereof.

**PERMITS FOR SPUR TRACKS.**

Sec. 145. Be it further enacted, etc., The revocable permits for laying spur tracks across or along streets, alleys or public ground, to connect a steam or electric railroad with any property in need of switching facilities shall not be regarded as a grant within the meaning of this act, but may be permitted in accordance with such terms and conditions as the city commission may by ordinance prescribe.

Nothing in this act contained shall operate in any way, except as herein specifically stated, to limit the city commission to the exercise of any of its lawful powers respecting public utilities or to prohibit the city commission from imposing any such grant, such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this act or the Constitution of this State.

**FISCAL YEAR REPORTS OF OFFICERS.**

Sec. 146. Be it further enacted, etc., The fiscal year of the city shall begin on the first day of January. On or before the first day of November

of each year the City Manager shall submit to the Commission an estimate of the expenditures and revenues of the city departments for the ensuing year. Estimate shall be compiled from detailed information obtained from several departments on uniform blanks to be furnished by the City Manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments, and shall give in parallel columns the following information:

- (a) A detailed estimate of the expense of conducting each department as submitted by the department.
- (b) Expenditures for corresponding items for the last two fiscal years.
- (c) Expenditures for corresponding items for the current year, including adjustments due to transfers between appropriations plus an estimate of expenditures necessary to complete the current fiscal year.
- (d) Amount of supplies and materials on hand at the date of the preparation of the invoice.
- (e) Increase or decrease of requests compared with the corresponding appropriations for the current year.

(f) Such other information as is required by the Commission or that the City Manager may deem advisable to submit.

(g) The recommendation of the City Manager as to the amounts to be appropriated with reasons therefor in such detail as the Commission may direct.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the Commission for inspection by the public.

#### **RECEIPT OF ESTIMATE—PUBLIC HEARING.**

Sec. 147. Be it further enacted, etc., Upon receipt of such estimate the Commission shall prepare an appropriation ordinance in such form as may be prescribed by ordinance or resolution. Before finally acting upon such tentative appropriations the Commission shall fix a time and place for holding public hearings upon the tentative appropriation, and shall give public notice of such hearings. Following the public hearings and before its final passage, the appropriation ordinance shall be published with a parallel comparison with the recommendation of the City Manager. The Commission shall not pass the appropriation ordinance until ten (10) days after its publication, nor before the second Monday in January.

#### **POWER TO REVISE APPROPRIATIONS.**

Sec. 148. Be it further enacted, etc., If at the beginning of the term of office of the first Commission elected under the provisions of this act, the appropriations for the expenditures of the City Government for the current fiscal year have been made, said Commission shall have power by ordinance to revise, to repeal or change said appropriations and to make additional appropriations.

#### **TRANSFER OF UNEXPENDED BALANCES.**

Sec. 149. Be it further enacted, etc., Upon request of the City Manager the Commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

#### **BALANCE OF APPROPRIATION REVERT TO OWNERS.**

Sec. 150. Be it further enacted, etc., At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation.

Any accruing revenue of the city, not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the

appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the Commission to such uses as will not conflict with any uses for which specifically such revenues accrued.

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to the appropriations made by the Commission.

The Commission shall not under any pretext whatever appropriate in any year funds in excess of the estimated revenues of the year, and any ordinance or resolution making appropriation in excess of the annual revenues shall be illegal, null and void.

#### **SALARIES OF EMPLOYEES.**

Sec. 151. Be it further enacted, etc., The Commission shall fix by ordinance the salary or compensation of the heads of departments, its own employees, except as is provided by this act, the salary or compensation of the members of the divisions of police and fire under the immediate control of the chief thereof.

#### **—WHERE IN CHARGE OF FUNDS.**

Sec. 152. Be it further enacted, etc., The Commission or City Manager in fixing the salary of any officer, clerk or employee shall determine whether such officer, clerk or employee shall in any way be responsible for any money, securities or personal property of the City. If said officer, clerk or employee is responsible for money, etc., belonging to the city, a bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Louisiana. Premiums on such bonds shall be paid by the city.

#### **OFFICERS HOLD OVER.**

Sec. 153. Be it further enacted, etc., All persons holding office at the time this act goes into effect shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with the provisions of this act for the performance or discontinuance of the duties of any such office. When such provisions shall have been made the term of any such officer shall expire and the office be abolished.

The powers which are conferred and the duties which are imposed upon any officer, board, commission, or department of the city under the laws of the State shall, if such officer, board, commission, or department is abolished by this charter be thereafter exercised and discharged by the officer, board, or department upon whom are imposed corresponding functions, duties and powers under the provisions of this act.

#### **OATH OF OFFICE.**

Sec. 154. Be it further enacted, etc., Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation, to be filed and kept in the office of the Commission, that he will in all respects faithfully discharge the duties of his office.

#### **CONTRACTS CONTINUE IN FORCE.**

Sec. 155. Be it further enacted, etc., All contracts entered into by the city, or for its benefit prior to the taking effect of this act, shall continue in full force and effect. All public work begun prior to the taking effect of this act shall be continued and perfected hereunder. Public improvements for which legislative steps have been taken under the laws in force at the time this charter takes effect may be carried to completion in accordance with the provisions of such laws.

#### **CONTINUANCE OF ORDINANCES.**

Sec. 156. Be it further enacted, etc., All ordinances and resolutions in force at the time of the taking effect of this act, not inconsistent with its provisions, shall continue in force until amended or repealed.

**CLEARING SIDEWALKS, ASSESSMENT OF OWNERS.**

Sec. 157. Be it further enacted, etc., The Commission shall have power to provide by ordinance for assessing against the abutting property the cost of removing from the sidewalks all objectionable accumulations and for assessing against the property the cost of cutting and removing noxious weeds and rubbish.

**POWER OF CITY TO COLLECT TAXES SAME AS STATE.**

Sec. 158. Be it further enacted, etc., The City is hereby vested with the same rights, privileges, liens, mortgages and powers and shall pursue the same method for collection of taxes and licenses as are now or may hereafter be prescribed or exercised by the State; and the taxes and licenses due the city shall be paid in preference to all mortgages, liens, privileges and encumbrances, other than taxes due the State, and the City Treasurer is hereby vested with all the powers conferred by the general law on the Sheriffs and tax collectors of the State in tax matters.

**CITY NEED NOT GIVE BOND IN JUDICIAL PROCEEDING.**

Sec. 159. Be it further enacted, etc., In all judicial proceedings, wherein bonds and securities are required of litigants by law, the city shall be dispensed from furnishing bonds, securities or making affidavit, and from deposit or security for costs.

**JURISDICTION OF OFFICERS.**

Sec. 160. Be it further enacted, etc., That the City, Municipal Police, Magistrates or Justice of the Peace, Courts, referred to in section ninety-six of this act, shall have jurisdiction of the violations of the acts, ordinances, and laws, as established at the time this act is adopted and put into operation and effect in any city in the State of Louisiana or as may be enacted, passed or established by the City Commission or other competent authority as provided for herein. The Judge or Judges of the said Court or Courts shall pay over all fines collected for such violations, or whatever portion thereof as fixed by existing law, to the City Treasurer.

**RIGHT AND TITLE TO CITY PROPERTY.**

Sec. 161. Be it further enacted, etc., All the right, title and interest of the Mayor and City Council of the City as now existing in and to all lands, tenements, hereditaments, bridges, ferries, streets, allies, drains, walls, levees, markets, stalls, landing places, buildings and other property of whatever description and wherever situated, and with all goods, chattels, moneys, effects, debts due, demands, bonds, obligations, judgments, liens, actions and rights of action, accounts, books, vouchers, are hereby vested in the City as incorporated by this act.

**EIGHT HOUR LABOR DAY.**

Sec. 162. Be it further enacted, etc., Eight hours' labor shall constitute a day's work on all city work done under contract let therefor by the city.

**EXEMPTION FROM PARISH OR OTHER TAXES.**

Sec. 163. Be it further enacted, etc., Wherever by existing law or laws, any city, town or municipality shall now be exempt from the payment of Parish or other taxes, nothing in this act or in the action of such municipality in adopting the form of government herein prescribed or in incorporating or reincorporating hereunder, shall be deemed or held to be an abrogation of the present existing status of any such tax exemption, which shall be in no way affected hereby, but such exemption shall continue under and by virtue of any such law authorizing the same and shall be deemed and held to be a continuing, uninterrupted and identical exemption as provided by existing law.

**APPLICABILITY OF GENERAL LAWS.**

Sec. 164. Be it further enacted, etc., That all general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this act or with ordinances or resolutions hereafter enacted by the City Commission, shall be applicable to the city; provided, however, that nothing contained in this act shall be construed as limiting the power of the City Commission to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this act.

All ordinances and resolutions in force at the time of the taking effect of this act, not inconsistent with its provisions shall continue in full force and effect until amended or repealed.

**POSTEALS INVALIDITY OF THIS ACT.**

Sec. 165. Be it further enacted, etc., If any section or part of a section of this act proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this act, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

**REPEALING CLAUSE.**

Sec. 166. Be it further enacted, etc., That all laws and parts of laws contrary to or in conflict with this act be, and the same are hereby repealed.

## **CREATION AND GOVERNMENT OF MUNICIPAL CORPORATIONS.\***

**Act 136 of 1898, p. 224.**

**TITLE.**

**AN ACT** for the creation and government of municipal corporations throughout the State and defining their powers and duties and providing for the extension or contraction of their limits.

**CLASSES OF MUNICIPAL CORPORATIONS.**

Section 1. (As amended by Act 35, 1914, p. 100.) Be it enacted by the General Assembly of the State of Louisiana, That municipal corporations are divided into three classes, viz.: cities, towns, and villages. Those having five thousand inhabitants or more, are cities, those having less than five thousand and more than one thousand inhabitants, are towns and those having less than one thousand and more than one hundred and fifty inhabitants, are villages. A municipal corporation shall not be created with less than one hundred and fifty inhabitants.

**NAMES OF RESPECTIVE CLASSES.**

Sec. 2. Be it further enacted, etc., That the corporate name of a city shall be "The City of \_\_\_\_\_" of a town, "The Town of \_\_\_\_\_;" if a village, "The Village of \_\_\_\_\_," filling the blank in each case with the name of the city, town or village; and by such name may sue and be sued, contract and be contracted with, and exercise and perform all municipal powers and duties.

**LIMITS AND BOUNDARIES.**

Sec. 3. Be it further enacted, etc., That the limits and boundaries of the existing cities, towns and villages shall remain as now established until

\*Note. This and some of the following Acts are perhaps repealed by Act 160, 1918, printed supra. Nevertheless it was not deemed advisable to omit them from this edition.

altered as hereinafter provided. To enlarge or contract the boundaries of a city, town or village it shall be necessary for the municipal authorities to pass an ordinance defining with certainty the territory which it is proposed to include in or to exclude from the corporate limits, and also defining the entire boundary as changed. The ordinance shall not become operative until one month after its passage and until it shall have been published for three weeks in some newspaper of the city, town or village, if there be one, and, if none, by publication in a newspaper having general circulation therein for that time; and in either case, by posting written copies of the ordinance for said time in not less than three public places in the city, town, or village, when it shall become operative, unless an appeal be prosecuted. Any person interested may prosecute an appeal from the ordinance at any time before it becomes operative, by executing a bond, payable to the city, town or village, in the penalty of two hundred dollars, with two sufficient sureties, conditioned to pay all costs of suit in case the appeal be unavailing. The bond shall be approved by the judge of the District Court, and the appeal shall operate suspensively.

Note. Act 105, 1892, p. 137, prescribing the manner in which municipalities may extend their limits is not printed in this edition, as the subject matter is covered by this Act.

Note. Power and authority to extend its limits, was by the act vested in all existing municipalities, without the municipality as a condition precedent placing itself within the act. Brown vs. Town of Providence, 114 L. 631.

#### APPEALS FROM ORDINANCES FIXING LIMITS.

Sec. 4. Be it further enacted, etc., That the appeal from the ordinance shall be by suit in the District Court against the Mayor of the city, town, or village; and the question shall be whether the proposed extension or contraction of the corporate limits be or be not reasonable. If it be adjudged reasonable, the ordinance shall go into effect ten days thereafter, if no appeal be taken within that time, and the appellant and the sureties on this bond within its penalty, shall be adjudged to pay the costs. But if it be adjudged to be unreasonable, the ordinance shall be vacated, and the extension or contraction of limits and all ordinances proposing practically the same, shall be prohibited for one year.

#### BOARD OF PLAINTIFFS.

Sec. 5. Be it further enacted, etc., That any number of persons interested may join in one suit for the purpose of appealing from an ordinance extending or contracting the limits of a corporation, and one bond shall be sufficient; and when more than one suit shall have been brought for such purpose, it shall be the duty of the district Judge to order them consolidated and to be tried as one suit.

#### WHEN ORDINANCE BECOMES OPERATIVE.

Sec. 6. Be it further enacted, etc., That if appeal be not prosecuted from the ordinance, the municipal authorities shall, at the expiration of the time therefor, inquire into the fact of the publication and notice, and adjudge whether the same has or has not been given, and such finding, if made in good faith shall be conclusive, and if adjudged to have been made and given, the ordinance shall thereupon, after the end of a month after its passage, become operative. In case of an affirmance of an ordinance by the Court of Appeals, it shall become operative and valid.

#### ATTACKING EXTENSION OR CONTRACTION OF LIMITS.

Sec. 7. Be it further enacted, etc., That if the limits of any town, city, or village shall be unreasonably extended or contracted, any person interested may, after five years from the time when the limits were fixed, whether fixed under this act or heretofore, petition the municipal authorities thereof for a contraction or extension of the limits. In case the prayer of the petition be granted, in whole or in part, the ordinance for that purpose shall be subject to appeal by parties interested, as in other cases; and in case of a refusal to grant the petition, in whole or in part, the petitioner may appeal to the Circuit Court, by the execution of a bond

as provided in other cases and an issue shall then be made up and tried, and the question shall be whether the existing limits be or be not reasonable. If it be adjudged that the limits are reasonable the appellant and his sureties shall pay the costs as in other cases; but if it be adjudged that they are unreasonable, the court shall define the extent of the unreasonable extension or contraction, direct the municipal authorities to pass an ordinance conforming the limits to the judgment of the court, and shall enforce the direction. Such ordinance shall take effect from its adoption.

#### CENSUS TO CLASSIFY CORPORATION.

**Sec. 8.** Be it further enacted, etc. That whenever, by a census taken under an act of Congress or of the Legislature, it shall be shown that the population of a city, town or village has increased or diminished so as to take or place such city, town or village out of the class to which theretofore it hath belonged, the municipal authorities thereof shall certify the facts to the Governor, who shall investigate the matter; and if he finds the municipality to be wrongfully classed, he shall issue his proclamation in accordance with the facts, and shall correctly classify it, transmitting a copy of the proclamation to the mayor of such city, town or village. Such proclamation shall be published and recorded by the municipal authorities of the city, town or village as an ordinance is required to be published and recorded, and shall be conclusive from its issuance of the matter determined by it, until there be a new classification under the provisions of this act.

#### —WHEN MUNICIPALITY CONTAINS LESS THAN MINIMUM.

**Sec. 9.** Be it further enacted, etc., That if in any case the census show that a municipality hereafter created contains less than one hundred inhabitants, the Governor shall issue his proclamation abolishing the same; and thenceforward it shall not exercise any corporate power or function whatever, and shall cease to exist. The person who was mayor thereof at the time shall record the proclamation on the minute book and deposit the same with all of the other records of the defunct corporation, in the office of the clerk of the District Court of the parish, who shall receive the same, and preserve them as records; but such dissolution shall not relieve the property theretofore liable for the debts of the municipality. Nor shall any territory taken out of a municipality by contracting the limits in the manner provided by Section 7, of this act, be relieved from taxation for debts of the municipality legally incurred before said contraction.

#### ASCERTAINMENT OF NUMBER BY GOVERNOR.

**Sec. 10.** Be it further enacted, etc., That in the performance of his duties under this act, the Governor shall not be bound by the returns of a census, if he be of the opinion that the same are fraudulent. In such case, he may ascertain the facts for himself, and in such manner as he may deem proper, and classify or abolish municipalities accordingly.

**Sec. 11.** Be it further enacted, etc., That whenever a petition, signed by two-thirds of the electors of any hamlet or unincorporated village, shall be presented to the Governor, setting forth the metes and bounds of their hamlet or village, stating the number of inhabitants therein, and praying incorporation, he shall inquire into the facts. If he find the petition sufficient and sufficiently signed, and it be shown to his satisfaction that it has been published in full for three weeks in some newspaper of the proposed municipality, if there be one, and, if not, by posting in at least three conspicuous places in the hamlet or village, and that the place contains at least two hundred and fifty inhabitants, he shall, by proclamation, declare the village incorporated, defining its limits and boundaries, and fixing its name as "The Village of \_\_\_\_\_. " Such proclamation shall be filed in the office of the Secretary of State, and remain a record thereof.

**Note.** The municipality may in some regular way ascertain the number of its inhabitants and it may be shown by competent testimony, but an enumeration had after an ordinance has been enjoined, will not affect the injunction. *McFarlain vs.*

Town of Jennings, 106 L. 541. The publication of a petition for incorporation of the Town of Gretna was enjoined by some of its signers on the ground that they had given notice of their intention to withdraw their names therefrom. The publication was nevertheless continued, and publishers cited for contempt for violation of the injunction. Held that punishment was properly inflicted. Schwartz et al vs. Edrington Judge, 133 L. 238.

The Governor has authority to issue his proclamation declaring a village to have been incorporated, and when this was done, an action by the District Attorney will not lie to set aside the incorporation, and oust the officers on the ground that the statutory requirements had not been observed. State ex rel Marrero vs. Ebret et al, 135 L. 643.

#### APPOINTMENT OF OFFICERS.

Sec. 12. Be it further enacted, etc., That when any village shall have been incorporated as provided in the last section, the Governor shall appoint all the officers thereof, who shall hold their office until the next general municipal election, and until their successors are qualified. Such officers shall give bond as required in other cases and shall cause a certified copy of the Governor's proclamation declaring the village incorporated, to be recorded on its municipal records.

#### POWERS OF MUNICIPAL CORPORATIONS.

Sec. 13. (As amended by Act 135, 1916. p. 135). Be it further enacted, etc., That each city, town or village which is incorporated shall be governed by the provisions of this act and shall be a municipal corporation, with power:

First—To sue and be sued.

Second—To purchase, accept, receive by donation or otherwise, and sell or otherwise dispose of real estate and personal property, within or without the corporate limits, for all proper municipal purposes, and for parks, cemeteries, hospitals, school houses, houses of correction, water works, electric light and sewers, and other municipal purpose.

Third—To make all contracts and to do all other acts in relation to the property and concerns of the municipality necessary to the exercise of its corporate or administrative powers.

Fourth—To purchase or erect and to own, operate and maintain electric and gas light plants, street railway or traction systems, abattoirs, public markets, any other revenue producing property, public, utility, within or without their corporate limits and to regulate the same and to fix the rates for the consumption of the service so furnished. Whenever a municipality governed by the provisions of this Act shall purchase at conventional sale any public utility, mentioned in this paragraph of this Section such municipality is hereby specially authorized to issue certificates of indebtedness in payment of the price of the same or any part thereof bearing not more than five per centum per annum interest from date and running for not more than ten years and in such form as may be acceptable to the municipality and the vendor of the public utility. Such certificates may be secured by vendor's lien and special mortgage upon the property acquired and all improvements thereon or additional thereto or by pledge of any revenue arising from the operation of the said public utility above its cost of operation and upkeep or by pledge of not more than two (2) mills per year for not more than ten (10) years out of the general levy which the municipality is now or may hereafter be authorized to levy for ordinary, fixed, usual, or statutory charges; or the said certificates of indebtedness may be secured by the vendor's lien and special mortgage on the property acquired, pledge of excess revenues of the public utility, and pledge of not more than two (2) mills.

Fifth—To exercise such other or further powers as are herein conferred.

#### POWERS BY WHOM EXERCISED.

Sec. 14. Be it further enacted, etc., That the powers hereby granted shall be exercised by the mayor and board of aldermen of the respective cities, towns, and villages, as hereinafter set forth.

**DUTIES OF MAYOR ALDERMEN.**

Sec. 15. (As amended by Act 114, 1916, p. 246.) Be it further enacted, etc., That the mayor and board of aldermen of every city, town, and village, shall have the care, management, and control of the city, town or village, and its property and finances, and shall have power to enact ordinances for the purpose hereinafter named, and such as not repugnant to the laws of the State, and such ordinance to alter, modify and repeal; and they shall have power:

First: To levy and collect taxes upon all real, mixed and personal property within the corporate limits taxable according to the laws of the State, valuation of such property to be taken from the assessment rolls of the parish; for general revenue purposes not to exceed ten mills on the dollar; and special taxes for giving additional support to public schools; and for the purpose of erecting and constructing public buildings, public school houses, bridges, wharves, levees, sewerage work and other works of public improvement, the title of which shall be in the public, in the manner provided by Article 232 of the Constitution of this State; and in aid of public improvement or railway enterprises not to exceed five mills in any one year for a period of not longer than ten years, in the manner provided by Article 270 of the Constitution.

Second: To levy and collect taxes annually not to exceed five mills on the dollar, and for a period not to exceed forty years, on all taxable property within the municipal limits, in addition to other taxes, in a sufficient amount for the purpose of paying the interest coupons as they become due, on all bonds of the municipality now issued, or hereafter to be issued under Article 281 of the Constitution, and the bonds themselves, which bonds shall be payable only in cash or in matured coupons or bonds.

Third: To make regulations to secure the general health of the municipality; to prevent, to remove and abate nuisances or prohibit the construction of privy vaults and cesspools, and to regulate or suppress those already constructed; to compel and regulate the connection of all property with the sewers and drains; to suppress hog pens, slaughter houses and stockyards, or to locate same, with the concurrent approval of the Board of Health, or to regulate the same and prescribe and enforce regulations for cleaning and keeping the same in order, and the cleaning and keeping in order warehouses, alleys, yards, private ways, outhouses and other places where offensive matter is kept or permitted to accumulate, and to compel and regulate the removal of garbage and filth beyond the corporate limits. To locate within its corporate limits livery and sale stables, and prescribe and enforce such regulations as they may see fit for the construction and conduct of the same; provided, that no sale or livery stable, for either horse or cattle, shall be located within three hundred feet of a house of worship, nor in a residential district, without the consent of a majority of the residents living within three hundred yards of any proposed location of such stable; to prevent or regulate the running at large of animals of all kinds, and to cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such regulations, and the expense of impounding and keeping and selling the same, and to regulate and provide for the taxing of owners and harbo'ers of dogs, and to destroy dogs running at large; to provide for the erection of all needful pens, pounds and buildings for the use of the city, town, or village, or incorporated parish seat, within or without its limits, and to appoint and confirm keepers thereof, and to establish and enforce rules governing the same.

Fourth: To compel owners of property adjacent to walks and ways, where dangerous, to erect and maintain railings, safeguards and barriers along the same, except when made dangerous by municipal authority.

Fifth: To regulate and order the cleaning of chimneys.

Sixth: To regulate parks, public grounds, depots, depot grounds, and places of storage of freight and goods within the corporal limits, and to provide for and regulate the construction and passage of railways and

street railroads through the streets, avenues, alleys, or lanes and public grounds of the municipality; but a person or company to whom the right and privilege shall, at any time, be granted by the authorities of a city, town or village, to construct railroads and street railroads through the municipality, shall not have the exclusive privilege to do so.

Seventh: To grant the right for the erection of telegraph, electric light, or telephone poles, posts and wires along and upon any of the streets, alleys, or ways of the municipality, and change, modify and regulate the same. But such a privilege shall not be exclusive.

Eighth: To grant to any person or corporation the use of the streets, alleys and public grounds for the purpose of laying gas, water, sewer, or steam pipes, conduits for electric light, to be used in furnishing or supplying the municipality and inhabitants or any person or corporation, with gas, water, sewerage, steam or hot air for heating purposes, or light, but a franchise, right of way, or privilege of any character whatever, shall not be granted for a longer period than twenty-five years, and such privilege shall not be exclusive.

Ninth: To prescribe rules for the weighing and measurement for every commodity sold in the municipality, in all cases not otherwise provided by law, and to provide for the measuring of wood and fuel and the weighing of coal, and determine the place or places for the sale of the same and fix fees and duties of the person authorized to perform the duties herein named; and to provide for the inspection and condemnation of coal oil, gasoline, naphtha, and all other inflammable and combustible oils, fluids or gases used for heating or lighting purposes, when the same shall not be of the quality and standard prescribed by ordinance.

Tenth: To establish and maintain, and to provide for the government and regulation of markets, market houses and places, and meat shops, and to collect a license tax therefrom and determine the amount of license to be paid therefor; and, when the municipality owns a market house or houses, to fix the rental value therof and of stalls and booths therein.

Eleventh: To establish, alter and change the channel of streams and water courses, and to bridge the same whenever so to do will promote the health, comfort and convenience of the inhabitants of the municipality.

Twelfth: To provide that any person desiring to subdivide a tract of land within the corporate limits, or to be included therein, shall submit a plan and map of such subdivision to the mayor and board of aldermen, to be approved by them before the same shall be filed for record in the records of deeds of the parish.

Thirteenth: To make all needful police regulations necessary for the preservation of good order and the peace of the municipality; and to prevent injury to, destruction of, or interference with public or private property.

Fourteenth: To maintain streets and roads in the limits of the municipality.

Fifteenth: To provide for the election of such municipal officers other than those required by this act, as may be found necessary; to prescribe the duties and to fix the compensation of all officers and employees, and to require bonds with sureties for the performance of duties from all officers and employees.

Sixteenth: To provide for the removal of officers and discharge of employees for misconduct or neglect of duty.

Seventeenth: To appropriate money and provide for the current expenses of the municipality; but an indebtedness shall not be incurred nor a warrant be drawn on the treasurer in payment of any indebtedness to exceed the amount of funds on hand in the treasury at the time, except as specially authorized in the issuance of bonds. To meet current expenses the mayor and council may borrow money, but in so doing the debt so incurred, added to the current debt of the year, shall not exceed the sum which the levy of the taxes for the year may raise.

Eighteenth: To elect one of the aldermen to be mayor pro tempore, and who shall preside at all meetings and perform all duties of the mayor in the absence or disability of the mayor; and in the absence of both the mayor and the mayor pro tempore, to select another councilman to preside temporarily and perform the duties; and the mayor pro tempore, when occupying the place of the mayor shall have the same power and perform the same duties as the mayor.

Nineteenth: To cause to be constructed and maintained sidewalks, determine the material, plans and specifications and grades of the same, and levy and collect taxes, by special assessment, for the payment of same.

Twentieth: To close and vacate any street or alley, or any portion thereof, and where the fee is in the municipality to lease or dispose of same by sale or otherwise.

Twenty-first: To exercise the right of eminent domain in the laying out of streets, avenues, alleys, and parks and in straightening or widening the streets or changing the grades thereof, and the construction and repairing of sidewalks, sewers and other needed repairs and improvements; and for the purpose of perfecting its drainage system, may exercise the right without as well as within its limits.

Twenty-second: To exercise full jurisdiction in the matter of streets, sidewalks, sewers and parks; to open and lay out and construct the same; to repair, maintain, pave, sprinkle, adorn and light the same.

Twenty-third: To erect, purchase, maintain and operate water works and to regulate the same; and to prescribe the rates at which water shall be supplied to the inhabitants; and to acquire by purchase, donation, or condemnation in the name of the municipality suitable grounds within or without the corporate limits upon which to erect water works, and also the right of way for laying water pipes within the corporate limits and from such water works to the municipality, and to extend such right from time to time or to contract with any person for the erection and maintenance of water works for a term not exceeding twenty-five years, fixing water rates in the contract subject to municipal regulations. But a contract for the erection, purchase, or maintenance of water works shall not be entered into until submitted to a vote of the qualified electors, and approved by a majority of them. The mayor and board of aldermen of every city and town owning, maintaining and operating either a municipal waterworks or electric light system or both shall have the additional power to install, own, maintain and operate in connection with such system, an ice-making plant for the purpose of supplying its inhabitants with ice, and to prescribe the rates at which ice shall be supplied to its inhabitants.

Twenty-fourth: To regulate, suppress, and impose a privilege tax on all circuses, shows, theaters, billiard tables, bowling alleys, concerts, itinerant sellers of medicine, corn doctors, pet bear exhibitors, exhibitions for pay, fortune tellers, cane or knife racks and like devices, gift enterprises, lung testers, museums, menageries, feather renovators, muscle testers or developers, peddlers, flying jennies, pistol or shooting galleries, theatrical exhibitions, ten pin alleys (without regard to the number of pins used), skating rinks, roller coasters and other like things.

Twenty-fifth: To make regulations to prevent the introduction and spread of contagious or infectious diseases; to make quarantine laws not contrary to the general State laws on the subject, and to enforce the same within five miles of the corporate limits; to establish pest houses within or without the corporate limits, and to provide for the support and government of the same.

Twenty-sixth: To prohibit and suppress tippling shops, saloons, dram-sops, clubrooms; to restrain, prohibit and suppress slaughter houses, houses of prostitution, disreputable houses, games and gambling houses and rooms, dance houses and rooms, keno rooms, desecration of the Sabbath day, and all kinds of indecency and other disorderly practices, disturbances of the peace, and to provide for the punishment of the persons engaged therein.

Twenty-seventh: To erect, purchase, or rent, a city, town, or village hall, schoolhouses, engine houses and all other necessary municipal buildings.

Twenty-eighth: To construct all needful improvements in the harbor; to control, guide or deflect the current of a river, with the approval of the Board of State Engineers; to repair and regulate public wharves and docks; to charge and collect levee rates and wharfage on firewood, lumber, timber, logs, shingles, staves, posts, laths, and other articles brought to the port of such municipality; to set aside or lease portions of the wharf for special purposes; but a permit to use any portion of a wharf or a lease of the same shall not be granted for a term exceeding five years.

Twenty-ninth: To contract with the police jury, which is empowered in the premises, for the use of the parish jail for the use of the municipality; to provide for the working of the streets by municipal prisoners, and to contract with the parish for such work by parish prisoners or for the working of parish roads by municipal prisoners.

Thirtieth: To levy and collect special assessments, taxes and bonds provided for.

Thirty-first: To pass all ordinances and to enforce the same by fine not to exceed one hundred dollars, or imprisonment not exceeding thirty days, or both.

Thirty-second: To license ferries and to regulate the same and the landing thereof within the corporate limits.

**Note.** A municipality is without authority to suppress or locate at pleasure a lawful business, like a livery stable, which is not a nuisance per se. The act in specific terms merely grants authority to prescribe regulations whereby such establishment shall be kept clear and in good order. *Town of Crowley vs. West* 52 A 526. Municipalities are by this act empowered to pass ordinances to restrain, prohibit and suppress games, gambling houses, etc. *Town of Ruston vs. Perkins*, 114 L. 851. *City of Lake Charles vs. Roy et al.*, 115 L. 939. The general jury privilege granted to all municipal corporations by this act is not inconsistent with the special privilege granted jointly to the police juries of the parish of Lafourche and the town of Thibodeaux by Act 67, 1855, p. 61 and Act 1866. *Police Jury vs. Robichaux*, 116 L. 286.

Par. 19 of this Section is not repealed by Act 131, 1904, but a municipality cannot under it, order the property owner to construct a sidewalk and in default do the work itself and collect the cost from the owner. *Town of Rayne vs. Harrel*, 119 L. 652. A municipal corporation is without authority to compel persons to work on the public streets. The laws relating to parishes and work on public roads have no application. *Town of Winnfield vs. Long*, 122 L. 697. A municipality which has not adopted the provisions of this act, but continues to operate under a charter adopted at a time when no form of gambling was unlawful except banking games, such as faro, is not authorized to prohibit playing cards for money in any and all places within the corporate limits. *Town of Marksville vs. Worthy*, 123 L. 432.

The authority granted a municipality authorizes it to fix the amount of bonds which officers shall give and the salaries which shall be paid them, and no alleged unreasonableness of the one or the other gives the courts the power to review the exercise of the unlimited power granted. (The bond of the marshal was fixed at \$3,000 his salary at \$1.00 per month). *State ex rel Gentry vs. Mayor*, 123 L. 903.

A municipal corporation organized under Act 136 of 1898 has the authority under Sec. 15 to adopt ordinances prohibiting vagrancy and to enforce it in imposing a penalty not to exceed \$100.00. *State ex rel. Fritz vs. Gassens*, 128 L. 270.

This Section as it stood under amendment by Act 111, 1912, p. 128, authorized a municipality to maintain and operate an ice making plant (par. 23). This provision it will be noted is renewed by the amendment of 1916 printed above, though it was held that the legislature was without power to grant to municipalities the power to levy taxes for that purpose, which it was held was not a public purpose. *Union Ice Co. vs. Town of Ruston*, 135 L. 898.

A municipal corporation has authority to suppress the business of operating pool tables for gain or for gambling purposes, and of maintaining halls or rooms where the game of pool may be played, though not specifically mentioned in the act Sub. 24, 28. *Town of Eros vs. Powell*, 137 L. 342.

Where a public road along a navigable stream is included within the limits of a municipality, the road becomes one of the streets and the municipal authorities had authority to lay it out. R. S. Sec. 3369 does not apply. *Village of Moreauville vs. Bayer*, 138 L. 1070.

#### ADDITIONAL POWERS OF MAYOR AND ALDERMEN.

Sec. 16. Be it further enacted, etc. The following additional powers are conferred on the mayor and aldermen of cities and towns, but not of villages, viz.:

First: To fix the rate or carriage of persons and drayage, cartage, and transportation of property, other than by railroads operated by steam within the limits of the municipality.

Second: To adopt all such measures as may be deemed necessary or proper for the protection of strangers and the traveling public in person or property.

Third: To erect, establish and regulate hospitals, workhouses and houses of correction in the corporate limits, or within three miles thereof, and provide for the government and support of the same.

Fourth: To establish, regulate and support night watch and police and define the duties thereof.

Fifth: To provide for the lighting of streets, parks, and public grounds and the erection of lamps and lamp posts.

Sixth: To maintain one or more libraries for public use, and to regulate the use thereof.

Seventh: To regulate the entrances to public halls, churches and buildings, and the way of ingress and egress to and from the same.

Eighth: To provide for the prevention and extinguishment of fires, and to organize, establish, and maintain a fire department and to regulate the same; to establish fire limits; to regulate, restrain or prohibit the erection of wooden buildings within such limits as may be prescribed by ordinance, and to provide for the removal of same at the expense of the owner thereof when erected contrary to the ordinances of the municipality; to regulate and prevent the storing of green hides and the carrying on of manufactures dangerous in causing or producing fires, injurious to health, or obnoxious or offensive to the inhabitants; to appoint a fire marshal, who may be the mayor, city or town marshal, with power to remove and keep away from the vicinity of any fire all idle and suspicious persons lurking near the same, and to compel any person present to aid in the extinguishment of such fire, or the preservation of property exposed to the danger of the same, and in preventing goods from being purloined thereat, and with such powers and duties as may be prescribed by ordinance.

Ninth: To regulate the storage of powder, pitch, turpentine, rosin, hemp, hay, cotton and all other combustible and inflammable materials, and the storing of lumber in yards or on lots within the first limits as may be prescribed by ordinance, and the use of lights and candles in stables, shops and other places to remove or prevent the construction of any fire place, chimney, stove, oven, boiler, kettle or any apparatus used in any house, building, manufactory, or business which may be dangerous in causing or producing fires; to direct the safe construction of deposits for ashes; and to enter into and examine all dwelling houses, lots, yards, inclosures and buildings of every description, and other places, in order to ascertain whether any of them are in a dangerous state; and to take down and remove buildings, walls and superstructures that may become insecure or dangerous, and to require owners of insecure or dangerous buildings, walls, and other erections to remove or render the same secure and safe at the cost of the owner of such property.

Tenth: To regulate and prescribe the manner and order the building of party, and parapet, and fire walls and party fences; and to regulate and prescribe the construction and building of chimneys, smokestacks and smoke and hot air flues.

Eleventh: To work and keep in repair highways and turnpikes leading into the municipality for a distance not exceeding three miles from the corporate limits; but this shall only be done upon a majority vote of the qualified electors authorizing the same; nor shall anything done hereunder relieve road hands and road overseers from any duty with respect to the road so worked.

Note. Authority to regulate the storage of powder \* \* \* and other combustible and inflammable material "includes authority to prohibit the storage of refined and other explosive oils within the corporate limits. A special ordinance granting the right to some individual is superseded by the general ordinance prohibiting it. City of Crowley vs. Ellsworth, 114 L. 308.

**ADDITIONAL POWERS OF MAYOR AND ALDERMEN.**

**Sec. 17.** (As amended by Act 17, 1902, p. 24.) Be it further enacted, etc., That the following additional powers are conferred on the Mayor and Aldermen of cities and towns having more than one thousand inhabitants, and incorporated parish seats:

First: To levy and collect a license tax upon and regulate all callings, trades, professions and occupations, conducted, pursued, carried on or operated within the limits of the city or town, or incorporated parish seats, and when the license taxes equal in amount those levied by police juries for parochial purposes, said towns and cities and incorporated parish seats shall be exempt from the payment of parochial licenses. Provided said licenses shall be devoted only to street or sidewalk improvements, or waterworks, or lights, or street railways, or sewerage or public school purposes. And further provided that all municipal corporations in the State shall enjoy and exercise the power conferred by this act, provided they shall build water works, lights, sewerage or street railways, within the first year for which they may claim the benefits provided by this Act.

Second: To authorize the proper officer to grant and issue such licenses and to direct the manner of issuing the same. All license taxes shall be regulated by ordinance, and a license shall not be issued for a longer period than one year.

Third: To regulate the crossings of railways and street railroad tracks and provide precautions and prescribe rules regulating the same; and to regulate the running of street railroads or cars, and railway engines, cars, and tracks within the limits of the city or town or incorporated parish seat, and to prescribe rules regulating the same and governing the speed thereof; and to make any other and further provisions, rules and regulations to prevent accident at crossings and on the tracks of railroads, and to prevent fires from engines; and to require railroad companies to erect viaducts over or gates across their tracks at the crossings of streets.

Fourth: To prevent or regulate the running at large of animals of all kinds, and to cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such regulations, and the expense of impounding and keeping and selling the same, and to regulate and provide for the taxing of owners and harborers of dogs, and to destroy dogs running at large; to provide for the erection of all needful pens, pounds and buildings for the use of the city or town or incorporated parish seats within or without the city limits, and to appoint and confirm keepers thereof, and to establish and enforce rules governing the same.

Fifth: To institute and prosecute to judgment condemnation proceedings for the establishment of landings, free wharves, on navigable streams within or without five miles of incorporated limits; but this shall only be done when authorized by a majority of the qualified electors at an election to be held for that purpose.

Sixth: That all Mayors shall have the power of committing magistrates.

**Note.** The legislature in declaring that parish licenses shall not be collected in municipalities, where the license imposed by the municipal authorities equal those of the parish, cannot be taken to mean that the parish may collect licenses in those municipalities exempt from such taxation by special laws, though these municipalities may not collect a license tax, equal to that imposed by the parish. *Cade vs. Mitchell* 51 A. 1493. See also *City of Gretna vs. Bailey* 141 L. 639.

Where the power to collect license taxes is vested in a municipality, it must be exercised under Act 171, 1898, the general license act. Before the amendment of the section, villages were without the power to impose licenses. *Arnold vs. Jones*, 118 L. 143. After since the amendment by Act 17, 1902. *Parish vs. Avery*, 119 L. 143. See *Hunter vs. Express Co.* 134 L. 338. Municipal corporations are authorized to impose license taxes, but those imposed on wholesale dealers must be distinct from those on retailers. *Town of Houma vs. Houma Lighting & Ice Mfg Co.*, 121 L. 21. A municipal corporation organized under Act 136, 1898 may exist and maintain a lighting system and may pay therefor out of the revenues derived by it from licenses, and based on this revenue and as evidence thereof it may issue certificates to be paid out of the revenues of future years. *Houma Lightg & Ice Mfg Co. vs. Town of Houma*, 127 L. 726.

**DIVISION OF CITY INTO WARDS.**

Sec. 18. Be it further enacted, etc. That each city shall be divided into four wards, which shall be as near equal in population as can be conveniently provided, and the territory of each shall be contiguous. The boundaries of wards may be changed by ordinance when the same shall be passed by a vote of at least two-thirds of all the aldermen elected, and when fixed by ordinance the boundaries of the ward shall not again be changed for the purpose of uniting thereto such territory as may at any time be added to the city limits. No change in the boundary of a ward shall be made, however, less than one year before a municipal election. But in case a city shall not be divided into wards before the first election hereunder all the aldermen may be elected from the city at large. Towns may or may not be divided into wards, as shall be determined by the mayor and board of aldermen; but if divided, the whole of this section shall apply. Where not divided, the municipality shall be treated as constituting but one ward within the provisions of this act as concerns the subject of registration and elections.

**OFFICERS OF CITY.**

Sec. 19. (As amended by Act 306, 1908, p. 466.) Be it further enacted, etc., That the officers of every municipality shall be a Mayor, Aldermen, a Marshal, a Tax Collector, a Clerk and a Street Commissioner.

The number of Aldermen in a city shall not be less than five and not more than nine; in a town, five, and in a village, three. The Mayor, Aldermen and Marshal shall be elected by the people, the other officers by the Board of Aldermen. When there are eight or more Aldermen, two shall be elected by each ward in a city and the remainder at large, and in other cases an equal number of Aldermen shall be elected in each ward of a city, the remainder at large.

If a town be divided into wards, one Alderman shall be elected in each ward and one at large. The Mayor and Marshal in all municipalities shall be elected at large. The Street Commissioner and Clerk may be an Alderman, and the Mayor may be Street Commissioner, if the Board of Aldermen so elect, and the Clerk or Marshal may be Tax Collector or Assessor, if the Board of Aldermen so decide.

**QUALIFICATIONS AND DUTIES OF MAYOR.**

Sec. 20. (As amended by Act 309, 1910, p. 526.) Be it further enacted, etc., That the Mayor shall preside at all meetings of the board of Aldermen, and in case there be an equal division, he shall give the deciding vote. He shall have the superintending control of all officers and affairs of the municipality, and shall inquire into and see to it that all the laws and ordinances are being properly executed and enforced; and he shall have the power to veto any law, by-laws, or ordinance adopted; notwithstanding the exercise of the veto power, any law or ordinance may be adopted, if two-thirds of the aldermen vote thereafter in favor of its adoption. He shall sign commissions and appointments of all the officers elected or appointed by him and the Board of Aldermen. He shall sign warrants drawn on the treasury for money, and require the clerk to attest to the same, and to affix thereto the seal of the municipality and to keep an accurate record thereof in a well bound book, to be kept for that purpose. He shall from time to time communicate, in writing, to the Board of Aldermen such information and recommend such measures as in his opinion may tend to the improvement of the finances, the police, health, security, ornament, comfort and general prosperity of the municipality. He shall have power, when he deems it proper, to require any officer of the municipality to exhibit his accounts or other papers, and to make report to the Board of Aldermen, in writing, touching any subject or matter he may require pertaining to his office. He shall be active and vigilant in enforcing all laws and ordinances for the government of the municipality, and he shall cause all other officers to be dealt with promptly for any neglect or violation of duty; and he shall have such jurisdiction as may be vested in him by ordinance over all places with-

in five miles of the corporate limits for the enforcement of any health, quarantine, cemetery or water works ordinance and regulation thereof. He is authorized to call on every male inhabitant of the municipality over eighteen years of age and under fifty-five to aid in enforcing the laws. He shall have the power to remit fines and forfeitures and to vacate and annul penalties of all kinds for offenses against the ordinances of the municipality, by and with the consent of the Board of Aldermen; but a fine or penalty shall not be remitted or annulled unless the reason therefor be entered on the minutes by the clerk, together with and as a part of the order so doing. He shall be a qualified elector of the municipality, and he must have been for two years a resident of the parish.

**QUALIFICATION, ETC., OF ALDERMEN.**

Sec. 21. (As amended by Act 139, 1906, p. 239.) Be it further enacted, etc., That the qualifications of the aldermen shall be the same as are prescribed for the Mayor and in addition, those elected by and from wards must be residents of their respective wards, and no member of the Board of Aldermen shall hold any other office or employment under the municipal government while he is a member of said board, except as is provided for in Sections 19 and 23 of this Act, and no member of the Board of Aldermen, or any other officer of the corporation, shall be directly or indirectly interested in any work, business or contract the expense or price or consideration of which is to be paid from the treasury or municipality, nor be surety for any person having a contract, work or business with the municipality, for the performance of which security may be required, nor be surety for any officer or employe.

**MEETINGS.**

Sec. 22. Be it further enacted, etc., That the mayor and board of aldermen shall hold regular meetings on the first Tuesday in each month at such place and hour as may be fixed by the ordinance. The first meeting after this act becomes operative may be held and called at such time and place and in such manner as was authorized by law theretofore in force. The mayor or any other alderman may, by written notice, call a special meeting of the mayor and board of aldermen for the transaction of important business. The notice must state the time of meeting and distinctively specify the subject matter of business to be acted upon; it must be signed by the officer or officers calling the meeting, and must be served by the marshal or any policeman, on the members of the board including the mayor, who have not signed it, and who can be found personally, at least three hours before the time fixed for the meeting; said notice with the endorsement of its service, shall be entered on the minutes of the special meeting, and business not specified therein shall not be transacted at the meeting. But a member of the board shall not receive pay for attending a special meeting. In all cases it shall require a majority of the aldermen elected to transact business.

**ELECTION OF OFFICERS BY ALDERMEN.**

Sec. 23. (As amended by Act 306, 1908, p. 466.) Be it further enacted, etc., That at the first regular meeting of the board of aldermen succeeding each regular municipal election, they shall elect a clerk, a tax collector and all other officers as may be necessary, whose election is not provided for in Section 19. The clerk or tax collector shall execute a bond to the municipality, in such penalty, with such sureties and conditions as may be prescribed by ordinance and shall hold their offices for two years or until their successors shall be elected and qualified. The Board of Aldermen may annually appoint an attorney at law for the municipality, prescribe his duties and fix his compensation, or it may employ counsel to represent the interest of the municipality, should occasion require.

**DUTIES OF CLERK.**

Sec. 24. Be it further enacted, etc., That it shall be the duty of the clerk to keep a well bound book to be labeled "Municipal Minutes, City of

....." or "Town of .....," or "Village of .....," as the case may be, in which he shall record the proceedings and all order ordinances, and judgments of the mayor and board of aldermen, and to keep the same fully indexed alphabetically, so that all entries on said minutes can be easily found. The clerk shall be the custodian of the municipal seal, and each municipality shall adopt and provide a seal. The clerk shall keep a well-bound book, to be styled "Municipal Docket, City of .....," or "Town of .....," or "Village of .....," as the case may be, upon which he shall enter each claim against the municipality, and each subject matter to be acted upon by the mayor and board of aldermen. After each meeting he shall make up such docket for the next regular meeting. He shall examine the statutes of the State and the ordinances of the municipality to ascertain subject matter required or proper to be acted upon at the following meeting, and shall docket all such matters. He shall keep all such other books and records as may be provided for by ordinance, and shall file in his office and preserve all records and papers appertaining to the business of the municipality. He shall keep a well-bound book to be styled "Tax Record, City (or town, or village) of .....," in which he shall enter all deeds to individuals, and the list of lands sold to the municipality by the Tax Collector, showing (a) the description of the land, (b) as whose property sold, (c) date of sale, (d) amount of taxes, costs and damages due, and to whom the costs are owing, (e) when redeemed, (f) by whom redeemed, (g) date of redemption, and (h) amount paid therefor.

#### **DUTIES OF MARSHAL.**

Sec. 25. Be it further enacted, etc., That the marshal shall be ex-officio a constable. He shall be the chief of police thereof, and shall perform all other duties required of him by ordinance.

#### **DUTIES OF TAX COLLECTOR.**

Sec. 26. Be it further enacted, etc., That the tax collector shall collect, account for and pay over all taxes levied by the municipality, and perform all other duties required of him by ordinance, under the same penalties prescribed by law for the collection of State and parish taxes.

#### **DUTIES OF TREASURER.**

Sec. 27. Be it further enacted, etc., That the Treasurer shall receive, safely keep, and pay out according to law, all monies belonging to the municipality. He shall keep correct and accurate accounts of all receipts and disbursements, and shall make report, in writing to the mayor, and board of aldermen, at each regular meeting of the finances of the municipality; and shall perform all other duties that may be prescribed by ordinance; and shall pay out money only on the warrant issued by the order of the mayor and board of aldermen.

#### **DUTIES OF STREET COMMISSIONER.**

Sec. 28. Be it further enacted, etc., That the street commissioner shall, under the direction of the mayor and board of aldermen, have general control of the streets, alleys, avenues and sidewalks; he shall see that they are always in proper repair; he shall have the same worked, repaired, altered, paved, lighted, sprinkled, and everything else done that ought to be done to keep the same in good repair and condition, and shall perform all other duties that may be required of him by ordinance.

#### **MAYOR'S COURT—JURISDICTION, FEES, ETC.**

Sec. 29. (As amended by Act 160, 1910, p. 240.) Be it further enacted, etc., That there shall be a Mayor's Court for each city, town or village, with jurisdiction over all violations of municipal ordinances; and the Mayor shall have power and authority to try all breaches of said ordinances, and to impose fines and imprisonment, or both, provided for the infraction thereof; provided, that in wards containing cities of more than 5,000 inhabitants, there shall be elected by the voters of the ward for a term of four

years, a City Judge, who shall possess at least the qualifications now prescribed by law for Justices of the Peace, with civil jurisdiction as now conferred upon Justices of the Peace and criminal jurisdiction for the trial of cases not punishable by imprisonment at hard labor; and all violations of municipal and parochial ordinances, and the holding of preliminary examinations in all cases where the punishment does not exceed imprisonment at hard labor for a term of five years.

He shall in civil cases receive such fees as are paid to Justices of the Peace, and, for compensation in all other matters, he shall be paid a salary, payable monthly on his own warrant, to be fixed by the municipality and the Police Jury of the Parish in such sum as they may agree upon, and to be divided between them. Said salary shall not be decreased during the term of office of the Judge.

He shall be his own clerk and shall keep a docket record of the proceedings in civil and criminal cases.

In all criminal cases, in prosecutions under the State laws, it shall not be necessary to file an information or indictment against the accused, but the accused shall be prosecuted under an affidavit setting forth such particulars therein as may be necessary to enable him to make a report.

Upon the election of said City Judge, the office or offices of justice of the peace in the ward shall be ipso facto abolished.

In the event of the absence of the City Judge or his inability to act from any cause, the Judge of the District in which said city lies, or the City Judge, in the absence of the District Judge from the Parish, shall appoint some good and competent person to preside as City Judge pro tempore over said Court; provided, that the said City Judge shall have the right to recuse himself or be recused, in any case, in which he is incapacitated, which recusation shall be for the same causes now applicable to District Judges and the said City Judge, in the event of his recusation, shall have the right to appoint any competent person to try the said cause in which he is recused. As compensation for City Judge pro tempore, there shall be deducted from the emoluments of the City Judge-elect all fees in the causes in which said Judge pro tempore presides, and, in the absence or inability of the City Judge, said Judge pro tempore shall receive, in addition the pro rata share of the salary of the City Judge during the period he actually serves, to be deducted from the salary of the City Judge.

For every City Court there shall be a Marshal who shall be elected at the same time as the City Judge, by the voters of the ward, who shall hold his office for a term of four years. His salary shall be fixed by the Police Jury and the Board of Aldermen, payable monthly on his own warrant in such sum and as the said Boards may agree upon, and to be divided between them.

He shall also have the same power as Constable in the Justice of the Peace Courts, and shall receive in civil matters the same compensation as are now or may hereafter be paid to said Constables. Before qualifying, he shall be compelled to furnish a bond in the same amount, and with the same responsibility as now are or may hereafter be attached to constables of Justice of the Peace Courts.

In the event of the Marshal's absence or inability to act for any cause, any duly qualified deputy sheriff, who may be acceptable to the City Judge, can act in his place and stead. The city within which said City Court is located shall provide a suitable place for holding said court.

#### **DOCKET OF MAYOR'S COURT.**

**Sec. 30.** Be it further enacted, etc., That the mayor shall keep a regular docket, on which he shall enter the causes arising under the ordinances and to be tried by him and he shall keep a perfect record of all cases tried; he may hold his court at any time. The marshal shall attend the court and serve its process and act as its executive officer.

#### **EXPENDITURES OF MUNICIPALITY.**

**Sec. 31.** Be it further enacted, etc., That all expenditures of money for any purpose whatever, shall be in pursuance of a specific appropriation

made by order, and in no other manner. Every warrant drawn on the Treasury shall express on its face to whom issued and for what purpose allowed; and the ordinance authorizing its issue shall be cited by minute book and page, in or upon it.

#### **MUNICIPAL BUILDING.**

**Sec. 32.** Be it further enacted, etc., That the mayor and board of aldermen of every city, town, or village, not already provided therewith, may cause to be erected a suitable, convenient and creditable municipal building for the offices and court of the municipality, for the meetings of the board, and such other purposes, including public meetings of the citizens, as may be designated by ordinance.

#### **STYLE AND PUBLICATION OF ORDINANCES.**

**Sec. 33.** Be it further enacted, etc., That the style of all ordinances shall be: "Be it ordained by the mayor and board of aldermen of the City (town or village, as the case may be,) of \_\_\_\_\_," and all ordinances and allowances shall, as soon as practicable, after they are passed, be published in some newspaper of the municipality, or, if there be no such newspaper, by posting at three or more public places within the corporate limits, for three weeks; and ordinances shall not be enforced, unless for cause, the contrary be ordered, for one month after their passage. All ordinances shall be read and considered by sections at a public meeting of the mayor and board of aldermen, and the vote on their final passage shall be taken by "yeas" and "nays," which shall be entered on the minutes by the clerk; and a vote shall never be taken on an ordinance not previously reduced to writing. An ordinance shall not contain more than one subject, which shall be clearly expressed in its title; and an ordinance shall not be amended or revised unless the new ordinance contain the entire ordinance revised, or the section or sections as amended, and the original shall thereby be repealed. The clerk shall keep a well-bound book to be styled "Ordinances, City (or town, or village) of \_\_\_\_\_," in which he shall enter at length in a plain and distinct handwriting, every ordinance in force at the time this law becomes operative, and which shall remain in force sixty days thereafter, and every ordinance thereafter enacted immediately after its passage; and he shall append to each a note stating the date of its passage and cite therein the book and page of the minutes containing the record of its passage. The ordinances to be so recorded are those which are in their nature laws of the municipalities, and not mere orders or decrees temporary in their nature. The clerk shall keep said book accurately indexed alphabetically. The mayor and board of aldermen may from time to time authorize the revision of the ordinances and their publication in pamphlet or book form; and they may cause to be published in connection therewith the laws relating to municipalities with such annotations of Supreme Court decisions thereon as they shall deem advisable. The whole may be preceded with an historical sketch of the city, town or village.

Note. The failure to inscribe an ordinance in the "Ordinance Book" does not make it invalid. The provision of the law that ordinances be so inscribed is merely directory. *Town of Crowley vs. Rucker*, 107 L. 213. Publication of an ordinance cannot be shown by oral testimony, it is not the best evidence obtainable. Municipal courts may take judicial cognizance of ordinances of the municipality, it is otherwise with the courts of the State. *Pucheu vs. Jennings*, 107 L. 415. (The case was remanded for the production of the newspaper showing the publication), a municipal ordinance which has not been promulgated as required by law is void. *Town of Slidell vs. Levy*, 128 L. 809. An ordinance adopted two days before its alleged violation and which has not been published nor posted in public places has not acquired the force of law, although the ordinance provides it shall go into effect from and after its passage. *Town of Winnfield vs. Grisby*, 126 L. 929.

Near beer containing less than two per cent of alcohol is not a malt or alcoholic liquor within Const. Art. 229, and a license tax for its sale cannot be adopted by a resolution of the council adopted by a *viva voce* vote. *Village of Marthaville vs. Chambers*, 135 L. 767.

A municipal ordinance is not legally adopted, where the minutes of the meeting which passed it read, "upon motion and second ordinance providing for \* \* \* was read and adopted by Section." *Town of De Ridder vs. Head*, 139 L. 840; *Village of Elton vs. Britterell*, 142 L. 1025; but where the minutes recite "Ordinance No. 127 was adopted by the following vote on this Sept 7, 1915, ayes .....; nays, none"

the presumption is that the ordinance was properly enacted. *Town of Ruston vs. Lewis*, 140 L. 777.

Act 136, 1898 being later in date than 18 of 1896, known as the Sunday law, controls, and municipalities existing under the Act of 1898, have power and authority to require theaters, including moving picture shows, to be closed on Sundays. *City of Bogalusa vs. Blanchard*, 141 L. 33. The power to penalize gambling games was specially conferred on municipalities by Act 136, 1898. Baton Rouge was however not incorporated under the act. *City of Baton Rouge vs. Weis, et al*, 141 L. 99.

Under this section which relates to the subject and title of town ordinances, the word "subject" means "subject matter." The provision reciting that the title of an ordinance shall not contain more than one subject should be given a broad and extended meaning. *Town of Ruston vs. Dewey*, 142 L. 296.

#### **MUNICIPALITIES POWER TO PAVE STREETS, ETC.**

Sec. 34. (As amended by Act 131, 1904 p. 295.) Be it further enacted, etc., That the mayor and board of aldermen of all cities incorporated under the provisions of this Act shall have the power to pave, plank, gravel, macadamize, or otherwise improve the streets and alleys or any part thereof, not less than one block, and the sidewalks, or any part thereof, and construct curbing, within their corporate limits, and shall have power to levy and collect special taxes or local assessments on all real estate abutting the streets, alleys, sidewalks, or curbing to be improved or constructed, for the purpose of defraying the costs of such improvements, either in whole or in part, as hereinafter provided.

Note. This section does not repeal Act 10 of 1896 as to the town of Thibodeaux, because that town having less than 5000 inhabitants did not come under the Act of 1896. The town of Thibodeaux has elected to come under the Act of 1898 and its dedication of future revenues to pay part of the contract price for street paving is valid, where existing debts had been refunded and extended and did not together with the payment on the paving contract and the ordinary expenses exceed the estimated excess of revenues over the statutory charges of the year. *Rotte et al vs. Town of Thibodeaux*, 137 L. 210.

#### **PETITION FOR PAVING MUST BE MADE BY PROPERTY HOLDERS.**

Sec. 2. (Act 131, 1904.) Be it further enacted etc., That the mayor and board of aldermen shall not order the paving, planking, graveling, macadamizing, or otherwise improving any street, alley, or part thereof, under said Section 3, of Act 136 of 1898 as herein amended and re-enacted, except upon the written petition of a majority of the abutting real estate owners, in number and in value, on the street, alley, or portion thereof, to be so improved; provided, that the words "streets" and "alleys" as herein used, shall not include sidewalks and curbing; and provided, further, that the number of abutting real estate owners shall be determined alone by the conveyance records of the parish in which such city is situated, and the value of the abutting real estate shall be determined alone by the assessment rolls of such city, and when any real estate is not assessed, its value shall not be estimated.

#### **ALDERMEN MAY BY ORDINANCE ORDER PAVING OF SIDEWALK, ETC.**

Sec. 3. (Act 131, 1904.) Be it further enacted, etc., That whenever the mayor and board of aldermen of a city desire to pave, or improve, any sidewalk, street, alley, or portion thereof, or construct curbing, as herein provided, it shall prepare plans and specifications of said work to be placed on file in the Clerk's or Engineer's office, and shall adopt an ordinance ordering and describing in general terms the contemplated improvement, and authorizing the clerk to advertise for bids. Said advertisement shall be inserted at least twice in some newspaper published in such city, the first insertion to be not less than ten days prior to the date fixed for the reception of the bids, and shall contain a general description of the contemplated improvement, shall refer to the plans and specifications on file, and shall designate the hour, date and place for the reception and opening of the bids. The mayor and board of aldermen shall let the contract to the lowest responsible bidder who can furnish satisfactory security, but shall have the right to reject all bids.

#### **PROVISION FOR PAYMENT OF COST OF PAVING.**

Sec. 4. (Act 131, 1904.) Be it further enacted, etc., That the total costs of paving, planking, or otherwise improving sidewalks and curbing, as herein

provided, shall be paid for by the owners of the real estate abutting upon such sidewalk or curbing on the basis of the respective frontage of the property on the sidewalk or curbing to be paved or improved, by ascertaining the entire expense of said improvement and charging it upon each lot or parcel of real estate in the proportion that its frontage or abutment bears to that of all the abutting lots or parcels of real estate to be improved.

#### **APPORTIONMENT OF COST.**

**Sec. 5.** (Act 131, 1904.) Be it further enacted, etc., That the entire costs, including costs of culverts, headers, filling, engineering, labor, material, etc., of the paving, planking, graveling, macadamizing, or otherwise improving streets, alleys, or any portion thereof, as herein provided, shall be apportioned as follows: (1) The City shall pay in the proportion that the area of the intersection of the streets, or alleys, or portion thereof, to be improved, bears to the total area of such street, alley or portion thereof. (2) The abutting real estate owners shall pay the remainder of the costs according to the front foot rule provided for in Section 5. (3) When a railway occupies a portion of the street or alley, the owner thereof shall pay in proportion that the area of the space occupied by its roadbed bears to the total area of the street, alley, or portion thereof to be improved.

**Note.** The rule of apportionment for paving is as laid down in Sec. 4 of Act 131, 1904, amending Sec. 34 of the original act. This rule is the total cost of the work, after deduction made of whatever part falls to the city, or to any street railway on the street, must be paid for by the owners of real estate abutting upon the street in the proportion that the frontage of the property so abutting bears to that of all the other property so abutting. So that the property owner pays, not according to the number of square feet of pavement in front of his property, but according the frontage, regardless of whether the street be wider or narrower there than elsewhere." City of Crowley vs. Police Jury 138 L. 503. See also rule as to intersections. *Ibid.*, p. 506.

#### **COST IS LIEN AND PRIVILEGE ON PROPERTY.**

**Sec. 6.** (Act 131, 1904.) Be it further enacted, etc., That where any street, alley, sidewalk, curbing, or portion thereof, is paved, or otherwise improved, as herein provided, the mayor and board of aldermen shall, upon the final and satisfactory completion of the work, accept the same by ordinance and provide for an assessment of all abutting real estate and railway tracks and roadbeds in the amounts respectively due by the owners thereof according to the rules of the apportionment provided for in Sections 5 and 6, each assessment being separately numbered; a certified copy of which ordinance containing said assessment shall, upon its passage, be filed for record in the office of the Recorder of Mortgages in the Parish in which such assessed property is situated, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the city against all properties therein assessed which lien and privilege shall prime all other claims except taxes.

#### **ENFORCING PAYMENT.**

**Sec. 7.** (Act 131, 1904.) Be it further enacted, etc., That the amounts assessed in said ordinance shall be due and exigible immediately upon its passage, and, if not paid within ten days after the passage of said ordinance, the city shall have power to proceed by suit against the assessed properties and owners thereof to enforce collection, together with ten per cent of the amount of judgment recovered as attorney's fees, and all delinquent assessments shall bear eight per cent yearly interest.

#### **PAYMENT BY INSTALLMENTS.**

**Sec. 8.** (Act 131, 1904.) Be it further enacted, etc., That the mayor and board of aldermen may, in their discretion, in the ordinance accepting the work and making said assessments, allow all property owners therein assessed, who, within ten days after the passage of said ordinance, make written application therefor and pay in cash twenty per cent of the amount of their indebtedness, to pay the balance of said indebtedness, in four equal annual installments; provided that, as evidence of said deferred payments,

the property owner so applying and depositing said twenty per cent, shall sign and execute four promissory notes, payable to the order of the city, each for twenty per cent of the amount due by him, dated ten days after the passage of said ordinance accepting said work, maturing respectively one, two, three and four years from date, or sooner, at the option of said owner, bearing eight per cent yearly interest from date, and ten per cent attorney's fees in event of suit to enforce collection after maturity, which notes, paraphed by the City Clerk as being "secured by Assessment No. — of local Assessment Ordinance No. —," shall carry with them the lien and privilege above provided and said notes may be transferred by the city, without recourse, to the contractor, at their face value, in payment *pro tanto* of the work done by him.

**NAME OF PAVING ORDINANCES.**

Sec. 9. (Act 131, 1904) Be it further enacted, etc., That all ordinances relative to sidewalks and street paving and curb constructions shall be known as "Local Assessment Ordinances" and shall be numbered separately from other ordinances of the City, and all petitions, bids, resolutions, ordinances, and all proceedings of the City Council relative to sidewalk and street improvements shall be copied by the City Clerk in a separate book, and certified excerpts from the same shall be received as evidence.

**MUNICIPAL ASSESSMENT, HOW MADE.**

Sec. 35. Be it further enacted, etc., That the municipal assessment of property for taxation shall be made by the clerk or tax collector, by copying from the parish assessment rolls that portion thereof which embraces property or persons within the corporate limits; the copy may be made at any time after the assessment rolls are approved, and all changes in the parish assessment thereafter made shall likewise be made in the copy; and the said copy shall be placed in the hands of the municipal tax collector, and be his warrant for the collection of municipal taxes. In all cases where persons or property have escaped taxation for a previous year, the clerk shall assess the same taxation, and his assessment, when approved by the mayor and board of aldermen, on notice to the person, assessed, shall be binding and conclusive, unless appealed from within five days after his approval. The mayor and board of aldermen of a city, town, or village, may, at a regular or special meeting, to be held in September or October in each year, increase or diminish the valuation of property as assessed for taxation. Ten days' notice of the meeting at which such changes are to be made shall be given by posting written notices thereof in five or more public places in the municipality, and in cities the notice shall also be published in a newspaper, if there be one published therein. The mayor and board of aldermen shall levy the municipal taxes at the regular meeting in September of each year, or, in case of failure to do so, at any other regular meeting thereafter. The tax collector shall collect municipal taxes during the time and in the same manner and under the same penalties as the State and parish taxes are collected.

He shall, where not otherwise provided, in all particulars, be governed by the general revenue laws of the State, so far as applicable, in making such collections; but he shall make the reports thereby required to the mayor and board of aldermen, and shall pay over the money collected to the municipal treasurer; and shall receive only such commissions or compensation as may be allowed by ordinance. Sales for the non-payment of municipal taxes shall be made by the tax collector at such place, within the corporate limits as the mayor and board of aldermen may direct. The sale of real estate and the distress and sale of personal property, shall be made upon the same notice, at the same time, and in the same manner as provided by law for the sale of like property for unpaid State and parish taxes. The deed to the purchasers for lands so sold shall be filed with the municipal clerk, and there remain subject to redemption for the same length of time, and in the same manner as prescribed for the redemption of lands sold for State and parish taxes. Where lands are offered for sale for unpaid municipal taxes, and a person will not bid therefor, the amount

of taxes, damages, and costs due the same shall be struck off to the municipality, and otherwise dealt with as lands are which are sold to the State for delinquent State and parish taxes. The board shall be authorized to pay the State and parish taxes on lands thus acquired by it, and to collect the money thus paid, with the damages and interest allowed individuals in similar cases under the general revenue laws of the State thereon, from the date of such payment, upon the redemption of the lands from the municipal sale. The deeds of the tax collectors for individuals and a list of the lands sold to the municipality, which shall be made as required to be made by the State and parish collector, shall be filed within ten days after the tax sale, with the municipal clerk; and each shall have the same force and effect, and confer the same right, and entitle to the same remedies, as deeds and list made for delinquent taxes by the State and parish tax collector. But such title shall be subject to a title acquired under a sale for State and parish taxes.

After time for redemption has expired, the mayor and board of aldermen may take possession of the lease or sell any lands which it has acquired at tax sale to any person, in any manner that may be prescribed by ordinance.

**Note.** This section was repealed by Act 170 of 1898 and so much of it as authorizes the mayor and aldermen of a municipality to increase or diminish the valuation of property as assessed for taxation is null and void as in contravention of Const. Art. 225. McCune et al vs. White, 137 L. 310.

#### PUBLICATION OF ANNUAL STATEMENT OF REVENUES, ETC.

**Sec. 36.** Be it further enacted, etc., That the mayor and board of aldermen shall publish on the first of October, annually, a statement showing the amount of taxes and other monies collected during the preceding year, giving each source of income, the amount of expenditures in detail, stating for what purpose made. The statement shall show the resources and indebtedness of the municipality at the beginning of the fiscal year and at its close, and it must be spread on the minutes of the board.

#### CLERK SHALL BE AUDITOR.

**Sec. 37.** Be it further enacted, etc., That the clerk shall be the auditor of the municipality. He shall keep a well-bound book, in which he shall enter and preserve accounts of each particular fund, and the account of each municipal officer. The treasurer shall not receive money from any source until the same has been reported to the clerk and audited, and a receipt warrant issued therefor. All fines and forfeitures shall be reported by the officer collecting the same, immediately after such collection, and be paid into the treasury. The books of the auditor shall be subject to inspection by the tax-payers of the municipality at any time during business hours.

#### MUNICIPAL ELECTIONS, VACANCIES.

**Sec. 38.** (As amended by Act 196, 1904, p. 430). Be it further enacted, etc., That municipal elections shall be held every two years, on the Tuesday next following the third Monday of April. The officers elected shall qualify and enter the discharge of their duties on the first day of May, after their election, and shall hold office for two years and until their successors are elected and qualified, provided if no election be held, or a vacancy occurs at any time, or should an officer elected fail to qualify, the Governor shall appoint some suitable person to the office, who shall hold the office until the next general municipal election and until the qualification of his successor thereafter.

In case of any vacancy in any municipal office to which the officer elected or appointed by the mayor and aldermen, at any time, the same may be filled for the term by the mayor and board of aldermen at any regular or special meeting, officers of cities, towns and villages now in office or in office when any city, town or village elect to come under the provisions of this law, under section — of this act, shall retain their offices

until the first election under this law, with the powers of like offices under this act.

**Note.** Where the salary of an officer appointed to fill the unexpired term of another is less than two thousand dollars for the balance of the term, the Supreme Court is without jurisdiction of an appeal. *State ex rel Gentry vs. Mayor, etc.*, 121 L. 357.

#### **STATE LAWS GOVERN MUNICIPAL ELECTIONS.**

**Sec. 39.** Be it further enacted, etc., That the provisions of law on the subject of State and parish elections so far as applicable, shall govern municipal elections. The mayor and board of aldermen shall appoint the commissioners of election for municipal elections, in years when there is no general State election, and in such years returns of the election shall be made to the mayor and aldermen, who shall make such proclamation and do all other things in regard thereto as is required of returning officers for the parish.

#### **ADOPTION OF THIS SYSTEM BY EXISTING MUNICIPALITIES.**

**Sec. 40.** Be it further enacted, etc., That from and after the date that this act becomes operative, every municipality in the State shall exercise the powers conferred herein on the class to which it belongs and shall be governed by the provisions thereof. Provided the provisions of this Act shall not apply to an existing municipality unless hereafter by a majority vote of the electors therein, to be cast at a general or special election for the purpose, it be determined to come under the operation of this act. Such election shall be ordered and held by the municipal authorities on the petition of twenty-five freeholders, electors, notice thereof being given as of other elections. At such election those favoring the operation of the act as applicable to the municipality, shall have written or printed on their ballots "For the provisions of Act No. —, of 1898," and those opposed, "Against the provisions of Act No. —, of 1898." If a majority of the legal votes cast are in favor of adopting the provisions of this act, then the municipality shall be subject to and governed by its provisions, and the result of the election shall be certified to the Secretary of State, who shall make a record of the same in his office. If a majority of the votes cast shall be against the provisions of this act, the municipal authorities shall so enter of record, and another election submitting the question, shall not be held in twelve months thereafter. After a rejection of the provisions of this act by a municipality and until its acceptance thereof as herein provided, the corporate powers, right, and franchises thereof shall be and remain as now provided by law.

**Note.** This act has no application to municipalities, the electors of which have not voted to bring it under its provisions. *Mayor et al vs. Weeks*, 104 L. 493.

#### **CLASSIFICATION OF EXISTING MUNICIPALITIES.**

**Sec. 41.** Be it further enacted, etc., That the existing municipalities shall be classified according to their population, as shown by the United States census of 1890, until the class shall be changed as provided in this act. It shall be the duty of the Governor, so soon as this act becomes operative as to any municipality, to issue his proclamation, assigning such municipality to its proper class and to forward a copy of his proclamation to each, the officers of each shall demand such proclamation and upon its receipt shall cause it to be recorded in the minute book of the municipality and the same shall determine its class.

#### **JUDICIAL NOTICE OF CLASS BY COURTS.**

**Sec. 42.** The courts shall take judicial notice of the class to which each of the municipalities of the State belongs, and of its powers under the provisions of this act.

#### **AMENDMENTS TO CHARTER.**

**Sec. 43.** Be it further enacted, etc., That when a municipality now existing, which has not come under the provisions of this act, shall desire to amend its charter, the same may be done in this way: The mayor and

board of aldermen may prepare, in writing, the desired amendments, have the same published for three weeks in a newspaper published in the municipality, if there be one, and, if none, then by posting for said time in at least three public places therein; the proposed amendments shall then be submitted to the Governor, who shall submit them to the Attorney General for his opinion. If the Attorney General be of the opinion that the proposed amendments are consistent with the constitution and laws of the United States and of this State, including this act, the Governor shall approve the proposed amendments. If after publication made, one-tenth of the qualified electors of the municipality shall protest against the proposed amendments, or any of them, the Governor shall not approve the ones protested against until they shall be submitted to and ratified by a majority of the electors of the municipality.

Amendments, when approved by the Governor, shall be recorded at the expense of the municipality, in the office of the Secretary of State and upon the records of the mayor and board of aldermen, and, when so recorded, shall have the force and effect of law. A municipality not governed by this act may change its corporate limits under the provisions thereof.

*Note.* Act 110, 1880, p. 138, provides how municipalities may amend their charters. The act is not printed in this edition, as the act is repealed in fact, though not in terms by this act.

A property qualification cannot be required for Mayor and aldermen of a municipality. *Powell vs. Hart et al.*, 132 L. 287.

#### CITIES TO WHICH ACT DOES NOT APPLY.

Sec. 44. Be it further enacted, etc., That this act shall not apply to cities containing over two hundred thousand inhabitants.

#### REPEALING CLAUSE.

Sec. 45. Be it further enacted, etc., That all laws or parts of laws contrary to this act or on the same subject matter, except as herein provided, are hereby repealed.

*General Note.* It was the purpose of the General Assembly in enacting the act to deal with the whole subject of municipal corporations "those existing as well as those thereafter to exist." The act is constitutional. *Brown vs. Town of Providence*, 114 L. 631; *Lawrence vs. Town of Mansfield*, 128 L. 674 (see note to Sec. 3), Const 1898, Art. 48 does not abridge the power of the General Assembly to enact General Laws affecting the charters of the excepted class of municipal corporations. *City of Lake Charles vs. Roy*, 115 L. 939. Secs. 3 to 7 of the act are not unconstitutional as vesting legislative powers in the judiciary. *N. O. & W. R. R. Co. vs. Town of Vicksburg*, 117 L. 561.

The Supreme Court has jurisdiction of cases where the legality or constitutionality of a fine imposed by a municipal corporation is contested, but the jurisdiction is confined to that, other questions may be reviewed by the District Court. *Town of Ruston vs. Forentain*, 118 L. 53. See also *State ex rel. Ellis vs. Village*, 118 L. 1071.

Where the power to collect license taxes is vested in a municipality, it must be exercised under Act 171, 1898, the general license act. Villages are without the power to impose licenses before the amendment of Act 136 of 1898 by Act 17 of 1902. *Arnold vs. Jones*, 118 L. 143, aliter, since the amendment. *Parish vs. Avery*, 119 L. 143.

This act does not apply to municipal corporations, unless adopted by a majority vote of its electors. *Fourney vs. Town of Franklin*, 126 L. 151; *Town of Marksberry vs. Worthy*, 123 L. 432.

Whether the limits of a municipal corporation shall be extended is quasi legislative, and the courts will not interfere with the act of the legislative body of a municipality, unless unreasonable. Where the pleadings show the alleged interest of the plaintiffs in the matter to exceed \$2,000, the Supreme Court has jurisdiction. *Lawrence vs. Town of Mansfield*, 129 L. 674.

The act does not exempt property within the limits of a municipal corporation from parochial taxation, unless such exemption is expressed in some legislative act. The act which purports to exempt property within the town of Gretna is superseded by Act 136, 1898. *Gretna E. & S. Bank vs. Marrero*, 136 L. 931. See also *Morgan's La & T. R. R. & S. S. Co. vs. White et al.*, etc., 136 L. 1074.

The Mayor of a municipality is without authority to declare a quorum present at a meeting of aldermen, when in fact a quorum was not present, and an order made at that illegal meeting to pay for a road machine which the Mayor had purchased without being authorized to do so was arbitrary and illegal. *Glisson vs. Biggio*, 161 L. 215.

**CHANGE OF CORPORATE NAME.****Act 13 of 1918, p. 19.****TITLE.**

AN ACT permitting certain municipal corporations in the State of Louisiana, of less than twenty-five hundred inhabitants and governed by the provisions of Act No. 136 of 1898 of the General Assembly of Louisiana and the laws amendatory thereto, to change their corporate names, and providing the manner of effecting such change.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That, any municipal corporation in the State of Louisiana, having a population of less than twenty-five hundred inhabitants, governed by the provisions of Act No. 136 of 1898 of the General Assembly of the State of Louisiana and the laws amendatory thereto, and having a corporate name which is not identical with the name of the United States Post Office located in such municipality, be and it is hereby authorized and empowered to change its corporate name by making same conform in all respects with the name of the United States Post Office located in such municipality.

Sec. 2. Be it further enacted, etc., That in order that any municipality described in Section 1 hereof may avail itself of the authority conferred by said Section, its mayor and board of aldermen shall pass an ordinance adopting the new name and shall furnish a certified copy of said ordinance to the Governor of the State of Louisiana, whose approval thereof, when recorded in the municipal minutes and published therewith once in the official journal of the municipality, shall operate to effect such change of name.

**FORMS OF MUNICIPAL GOVERNMENTS.****Act 207 of 1912, p. 425.****TITLE.**

AN ACT, "To provide a form of government for certain cities of the State, the City of New Orleans excepted, and to make provision for the adoption of the same."

**CITIES OF 2500 INHABITANTS AND OVER, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any town within the State of Louisiana, now or hereafter having a population of twenty-five hundred (2500) or over, and that any city within the State of Louisiana, the City of New Orleans excepted, now or hereafter having a population of five thousand (5000) or over, as shown by the last preceding State or Federal Census, or by any census taken by the order and direction of the municipal authorities of said town or city, may become organized as a city under the provisions of this Act by proceeding as hereinafter provided; and whenever the word "city" is used in this act, it shall be construed to include towns of over twenty-five hundred (2500) inhabitants, and such towns shall be classed as cities of the second class as hereinafter provided.

**PETITION FOR ORGANIZATION OF CORPORATION.**

Sec. 2. (As amended by Act 6, 1918, p. 30). Be it further enacted, etc., That upon the petition of electors equal in number to twenty-five per centum of the qualified electors of any such city, the mayor shall, by proclamation, submit the question of organizing as a city under this Act at a special election to be held at a time specified therein not less than thirty days nor more than sixty days after said petition is filed. If said plan is not adopted at the special election called, the question of adopting said plan shall not be submitted to the voters of said city for adoption within two years thereafter, and then the question to adopt shall be resubmitted upon the presentation of a petition signed by electors as hereinabove pro-

vided, equal in number to twenty-five per centum of the duly qualified electors. At such election the proposition to be submitted shall be, "Shall the proposition to organize the city of (name of city) under Act 207 of 1912, of the General Assembly, be adopted," and the election thereon shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other city elections. If the majority of votes cast, shall be in favor thereof, cities having a population of forty thousand and over, herein to be classed as cities of the first class, shall thereupon proceed to the election at large of a mayor and four councilmen, and cities having a population of five thousand and less than forty thousand, and towns having a population of twenty-five hundred (2500) or over, herein to be classed as cities of the second class, shall proceed to the election at large of a mayor and two councilmen at the first regular city election after the adoption of the provisions of this Act, and quadriennially thereafter. Each candidate shall announce his candidacy for mayor or for councilman and commissioner of a designated department or of two departments as specifically apportioned in Section 4 of this Act.

#### **GOVERNMENT OF CITIES OF 400,000 INHABITANTS AND OVER.**

Sec. 3. (As amended by Act 6, 1916, p. 30). Be it further enacted, etc., That every city having a population of forty thousand or over shall be governed by a council consisting of the mayor and four councilmen; and every city having a population of five thousand and less than forty thousand and towns having a population of twenty-five hundred (2500) or over, shall be governed by a council consisting of a mayor and two councilmen, chosen as provided in this Act, each of whom shall have the right to vote on all questions coming before the council. In cities having four councilmen, three members of the council shall constitute a quorum, and in cities having two councilmen, two members of the council, or one councilman and the mayor, shall constitute a quorum, and in cities having four councilmen, the affirmative vote of three members, and in cities having two councilmen, the affirmative vote of two members shall be necessary to adopt any motion, resolution, or ordinance, to pass any measure, unless a greater number is provided for in this act.

#### **POWERS OF MUNICIPAL COUNCILS—DEPARTMENTS.**

Sec. 4. (As amended by Act 6, 1916, p. 30). Be it further enacted, etc., That the council shall have and possess, and the council and members shall exercise all executive, legislative, judicial and administrative powers, duties and functions now had, possessed and exercised by the municipal authorities and officers elected or appointed under the several charters of the cities as organized prior to the adoption of the provisions of this act by any city, unless otherwise provided in this Act.

In the cities of the first class these powers and duties shall be divided into and distributed among five departments as follows:

1. Department of Public Affairs and Public Education.
2. Department of Accounts and Finances.
3. Department of Public Health and Safety.
4. Department of Public Utilities.
5. Department of Streets and Parks.

In cities of the second class, these powers and duties shall be divided into and distributed among three departments, as follows:

1. Department of Public Health and Safety.
2. Department of Finance and Utilities.
3. Department of Public Parks and Streets.

The councils in both classes of cities shall determine the duties and powers to be performed by, and assign them to, the appropriate departments, and shall prescribe the powers and duties of officers and employees; may assign particular officers and employees to one or more of the departments, and may require any officer or employee to perform duties in two or more of the departments, and may make such other rules and regula-

tions as may be necessary and proper for the proper and economical conduct of the City's business.

In cities of the first class, the mayor shall be Commissioner of the Department of Public Affairs and Public Education.

In cities of the second class, the mayor shall be the Commissioner of the Department of Public Health and Safety.

#### **TERMS OF OFFICE.**

**Sec. 5.** Be it further enacted, etc., That all elective officers under this act shall hold office for a term of four years. If any vacancy in any such office shall occur, the remaining members of the council, in cities of the first class, and the mayor, in cities of the second class, shall appoint a person to fill such vacancy for the unexpired term, where the said unexpired term shall be less than one year; otherwise, an election shall be had to fill the vacancy.

The said officers shall be nominated and elected at large and shall qualify, and their terms of office shall begin on the first Tuesday after their election; provided, that the terms of the mayor and councilmen in office at the time of the adoption of this plan shall continue and run until the expiration of the term for which they were elected.

The terms of officers or employees appointed by incumbents at the time of the adoption of this plan shall terminate with the terms of those appointing them, or sooner.

#### **PROMOTING ELECTION OF OFFICERS, PENALTY.**

**Sec. 6.** Be it further enacted, etc., That any person who shall agree to perform, or perform, any services in the interest of any candidate for office provided for in this act in consideration of any money or other valuable thing for such services performed, or agreed to be performed, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars, or more than Two Hundred Dollars, or be imprisoned in the parish jail not exceeding thirty days; or both, at the discretion of the Court.

#### **Bribing Electors.**

**Sec. 7.** Be it further enacted, etc., That any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any such elections receiving or accepting such bribe or other consideration, or any person knowingly aiding or abetting the offering, receiving or accepting of such bribes or other consideration, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars and not more than Five Hundred Dollars, and by imprisonment in the parish jail not exceeding ninety days.

#### **DUTIES OF MAYOR AND ALDERMEN IN CITIES OF FIRST CLASS.**

**Sec. 8.** Be it further enacted, etc., That in cities of the first class the mayor shall be commissioner of the department of public affairs and public education, and one councilman shall be commissioner of the department of accounts and finances; one councilman shall be commissioner of the department of safety; one councilman shall be commissioner of the department of public utilities; and one councilman shall be commissioner of the department of streets and parks; and in cities of the second class the mayor shall be commissioner of public health and safety; one councilman shall be commissioner of the department of finance; one councilman shall be commissioner of the department of parks and streets. The council shall at its first meeting, or as soon as practicable thereafter elect by majority vote the following officers: City Attorney, Secretary-Treasurer and Tax Collector, Chief of Police, Auditor, Civil Engineer, City Physician, and such other officers and assistants as shall in the judgment of the mayor and councilmen be necessary to the proper and efficient conduct of the affairs of the city; and this act shall prevail over all provisions of the charter of cities coming under the provisions of this Act, provided, however, that in

cities of second class, such only of the above named officers shall be appointed as may, in the judgment of the mayor and councilmen, be necessary for the proper and efficient transaction of the affairs of the city. Any official or assistant elected or appointed by the council may be removed from office at any time by vote of a majority of the members of the council, except as otherwise provided for in this Act.

**OFFICES FOR AND COMPENSATION OF MAYOR, ETC.**

Sec. 9. (As amended by Act 6, 1916, p. 30). Be it further enacted, etc., That the mayor and council shall have an office or offices in the city hall and their total compensation shall be as follows:

In cities of the second class having a population, by the last preceding United States census or census taken by such municipality pursuant to an ordinance ordering such census, of twenty-five hundred (2,500) and less than five thousand (5,000), the Mayor's annual salary shall be not more than one thousand dollars (\$1,000.00) and each councilman's not more than two hundred and fifty dollars (\$250.00); in cities having by such census a population of five thousand (5,000) and less than ten thousand (10,000) the Mayor's annual salary shall be not more than two thousand dollars (\$2,000.00) and each councilman's not more than one thousand dollars (\$1,000.00); in cities having by such census a population of ten thousand (10,000) and less than fourteen thousand (14,000), the Mayor's annual salary shall be not more than twenty-five hundred dollars (\$2,500.00), and each councilman's not more than two thousand dollars (\$2,000.00); in cities having by such census a population of fourteen thousand (14,000) and less than twenty-five thousand (25,000), the Mayor's annual salary shall be not more than three thousand dollars (\$3,000.00), and each councilman's not more than twenty-four hundred dollars (\$2,400.00); in cities having by such census a population of twenty-five thousand (25,000) and less than forty thousand (40,000), the Mayor's annual salary shall be not more than four thousand dollars (\$4,000.00), and each councilman's not more than three thousand dollars (\$3,000.00); in cities of the first class having by such census a population of forty thousand (40,000) and less than sixty thousand (60,000), the Mayor's annual salary shall be not more than five thousand dollars (\$5,000.00), and each councilman's not more than thirty-five hundred dollars (\$3,500.00); and in cities having, by such census, a population of sixty thousand (60,000) or more, the Mayor's annual salary shall be not more than seventy-five hundred dollars (\$7,500.00) and each councilman's not more than forty-five hundred dollars (\$4,500.00).

In the event any city of the second class, having a population in excess of ten thousand (10,000) owns and operates its Street Railways, Water Works System and Lighting Plants, and where such city, according to such census, has a population of ten thousand (10,000) and less than fourteen thousand (14,000), the Mayor's annual salary shall be not more than three thousand dollars (\$3,000.00), and each councilman's not more than twenty-five hundred dollars (\$2,500.00); where such city has by such census a population of fourteen thousand (14,000) and less than twenty thousand (20,000), the Mayor's annual salary shall be not more than thirty-five hundred dollars (\$3,500.00), and each councilman's salary not more than three thousand dollars (\$3,000.00); where such city by such census has a population exceeding twenty thousand (20,000) and less than thirty thousand (30,000), the Mayor's annual salary shall be not more than four thousand dollars (\$4,000.00), and the salary of each councilman not more than thirty-five hundred dollars (\$3,500.00); where such city by such census, has a population in excess of thirty thousand (30,000) and less than forty thousand (40,000), the Mayor's annual salary shall be not more than forty-five hundred dollars (\$4,500.00), and the salary of each councilman not more than four thousand dollars (\$4,000.00).

Such salaries shall be payable in equal monthly installments. Every other officer, employee, or assistant, shall receive such salary or compensation as the council may, by ordinance, provide, payable in equal monthly installments.

**REPEALING CLAUSE OF AMENDMENT AND RESERVATIONS.**

Sec. 5. (Of Act 6, 1916, p. 30). Be it further enacted, etc., that all laws or parts of laws in conflict herewith are hereby repealed and this Act shall take effect after its passage and promulgation according to law, provided that it shall not affect the terms or salary of any municipal officer heretofore elected under the existing laws.

**ABANDONMENT OF MUNICIPAL CHARTER.**

Sec. 10. Be it further enacted, etc., That any city which shall have operated for more than six years under the provisions of this Act may abandon such organization hereunder and resume its original charter by proceeding as follows:

Upon the petition of not less than thirty-three per centum of the electors of such cities, a special election shall be called, at which the following proposition only shall be submitted, "Shall the city of (name of city) abandon its organization under Act No. 302 of 1910, as amended, and resume its original charter."

If a majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding quadrennial election shall be those then prescribed by the original charter; and upon the qualification of such officers such city shall become a city under its original charter; but such change shall not in any manner or degree affect the property, right or liability of any nature of such city, but shall merely extend to such change in its form of government.

The sufficiency of such petition shall be determined, the election ordered and conducted, and the result declared, generally as provided by section 3 of this Act in so far as the provisions thereof are applicable.

**PETITION TO ABANDON CHARTER.**

Sec. 11. Be it further enacted, etc., That petitions provided for in this Act shall be signed by none but qualified electors of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which petitioner resides, whenever practicable, his age, and length of residence in the city. It shall also be accompanied by the certificate of the register of voters of the parish stating that the signers thereof were, at the time of signing, qualified electors of said city, and stating the number of signers at the time the certificate was made; and that the same is the per centum required under this act.

**MEETINGS OF COUNCILMEN.**

Sec. 12. Be it further enacted, etc., That the regular meeting of the council shall be held on the first Monday after the election of the councilmen, and thereafter at least once each month. The council shall provide by ordinance for the time of holding regular meetings, and special meetings may be called from time to time by the mayor or two councilmen. All meetings of the council, whether regular or special, at which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the council and shall preside at its meetings, and shall supervise all departments and report to the council for its action all matters requiring attention in any of them. The Commissioner of the Department of Accounts and Finances shall be vice president of the council, and, in case of a vacancy in the office of mayor or the absence or inability of the mayor, shall perform the duties of the mayor.

**PUBLICATION OF ORDINANCES, FRANCHISES, ETC., SUBMISSION TO VOTERS.**

Sec. 13. Be it further enacted, etc., That every ordinance or resolution appropriating money or ordering any street improvement, or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose shall be complete in the form in which it is finally passed, and shall remain on file with the city secretary for pub-

lic inspection at least one week before the final passage or adoption thereof, and notice thereof must be published once in the official journal or other newspaper published in said city at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in any city shall be granted, renewed, or extended, except by ordinance, and every franchise or grant for interurban or street railways, gas or waterworks, electric lights or power plants, telegraph or telephone systems, or other public service utilities within said city, must be authorized or approved by a majority of the electors voting thereon at a special election called for that purpose by the council.

**OFFICERS AND EMPLOYEES NOT TO BE INTERESTED IN CONTRACT.**

Sec. 14. Be it further enacted, etc., That no officer or employee elected or appointed in any such city shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employee shall be interested directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employee shall be interested directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating in interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of said city. No such officers or employee shall accept or receive, directly or indirectly, from any person, firm or corporations operating within the territorial limits of said city, any interurban railway, street railway, gas works, waterworks, electric light, heating plant, telegraph line, or telephone exchange or other business using or operating under a public franchise, any frank, free ticket or free service, or accept or receive directly or indirectly, from any such person, firm or corporation, any other service upon terms more favorable than is granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars, and in default of payment of fine and costs, by imprisonment not exceeding ninety days, and every such contract or agreement shall be void. Such prohibition of free transportation shall not apply to policemen or firemen in uniform.

Any officer or employee of such city who by solicitation or otherwise shall exert his influence directly or indirectly to influence other officers or employees of his city to adopt his political views, or to favor any particular person or candidate for office, or who shall in any manner contribute money, labor or other valuable thing to any person for election purposes, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the Parish Jail not exceeding thirty days.

**QUARTERLY STATEMENT OF RECEIPTS, ETC.**

Sec. 15. Be it further enacted, etc., That the council shall quarterly publish in the official journal or other newspaper in said city, a detailed itemized statement of all receipts and expenditures of the city and a summary of its proceedings during the preceding quarter. At the end of each year the council shall cause a full and complete examination of all books and accounts of the city to be made by legally certified public accountants and shall publish the results of such examination in the manner above provided for publication of statements of quarterly expenditures.

**REMOVAL OF OFFICERS.**

Sec. 16. Be it further enacted, etc., That the holder of any elective office may be removed at any time after the expiration of the first year of his incumbency by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to

at least thirty-three and one-third per centum of the qualified electors of the city, demanding an election of a successor of the person sought to be removed, shall be filed with the secretary and treasurer, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number wherever practicable. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes. Within ten days from the date of filing such petition the registrar of voters, shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the council shall allow him extra help for that purpose, and he shall attach to said petition his certificate, showing the result of said examination. If by the certificate of the registrar of voters the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The registrar of voters shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the registrar of voters shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the certificate of the registrar of voters to the council that a sufficient petition is filed.

The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other city elections under this Act. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, his name shall be placed on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent received the highest number of votes he shall continue in office. The same methods of removal shall be cumulative and additional to the methods heretofore provided by law.

**SUBMISSION OF ORDINANCES TO VOTERS.**

Sec. 17. Be it further enacted, etc., That any proposed ordinance may be submitted to the council by petition signed by the electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petition under section 17 hereof.

If the petitions accompanying the proposed ordinance be signed by electors equal in number to thirty-three per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the council, such council shall either pass said ordinance without alteration within twenty days after attachment of the certificate of the registrar of voters to the accompanying petition; or forthwith after the registrar of voters shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one be so fixed, such ordinance shall be submitted without alteration to the

vote of the electors of said city. The ballots used when voting upon said ordinance shall contain these words "For the ordinance" (stating the nature of proposed ordinance) "Against the ordinance" (stating the nature of proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, can not be repealed or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose. The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes or amended accordingly. Whenever any ordinance or proposition is required by this Act to be submitted to the voters of the city at any election, the secretary shall cause ordinance or proposition to be published in the official journal or other newspaper published in said city, such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted upon.

**PUBLICATION OF ORDINANCES.**

Sec. 18. Be it further enacted, etc., That no ordinance passed by the council shall become effective until published once in the official journal or other paper in such city, and no ordinance passed by the council, except when otherwise required by the general laws of the State or by the provisions of this Act, except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a two-thirds vote of the council, shall go into effect before ten days from the time of its final passage; and if during the said ten days a petition signed by electors of the city equal in number to at least twenty-five per centum of the entire vote cast for all candidates for mayor at the last preceding primary municipal election at which a mayor was elected, protesting against the passage of such ordinance, be presented to the council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance and if the same is not entirely repealed, the council shall submit the ordinance as provided by Section 17 of this Act to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section 17 except as to the percentage of signers, and be examined and certified to by the registrar in all respects provided.

**ANNUAL PUBLICATION OF PROPOSED BUDGET, ETC.**

Sec. 19. Be it further enacted, etc., That the council shall, once in every twelve months, before fixing and deciding upon the amount of taxes to be assessed and imposed for the current or ensuing year, cause to be made out a detailed estimate, exhibiting the various items of liabilities and expenditures, including the requisite amount of contingent expenses, during said year, and shall cause the same to be published at least ten days in the official journal or other newspaper of the city, and such rate of taxation not exceeding ten mills on the dollar of valuation except all special taxes that may have heretofore been or may hereafter be voted, levied and assessed, shall thereafter be assessed and fixed, as, together with the license tax imposed by the council, and other revenues of the city, may be necessary to meet said estimated liabilities and expenditures. The adoption of said detailed estimate shall be considered as an appropriation of the amount stated therein, for the purpose stated, and the treasurer shall not pay, draw or sign any check upon the fiscal agent for any claim, unless an appropriation therefor has been duly made in accordance with this Act.

The provisions of this section shall not apply to special taxes, authorized by the vote of the taxpayers to be assessed in said works of public improvements, etc.

**RESERVE POWERS OF CITIES.**

Sec. 20. Be it further enacted, etc., That all of the powers belonging to any city that shall organize under the provisions of this Act, conferred either by its charter, or by law, not inconsistent with, contrary to, or in conflict with the provisions of this Act, shall be preserved to the said city unimpaired to be exercised by the mayor and council elected under the provisions hereof.

And all cities which are under their present charter, exempted from the payment of parish taxes shall remain exempt after the adoption of the form of charter herein provided.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 21. Be it further enacted, etc., That this Act shall not become effective with any municipality until the terms of its respective officers as now provided by law shall have expired, and when a municipality votes to come within the provisions of this Act, the term of the officers provided for by this Act shall be for a period of four years.

**REPEALING CLAUSE EXCEPTIONS.**

Sec. 22. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed. Provided that cities or towns that have heretofore voted to come under or adopted the provisions of Act No. 302 of 1910 shall continue to operate under said Act No. 302 of 1910 and provided further that said cities or towns having already adopted the provisions of Act 302 of 1910, may exercise the option of voting to come under the provisions of this act.

Note. Act 302 of 1910, p. 512 is not printed in this Edition, as it is not the law, except for such municipal corporations as were incorporated under it between its enactment and repeal. Act 100, 1918, adds three sections to the Act of 1910 and is printed below.

**COMMISSION FORM OF GOVERNMENT.**

**Act 100 of 1918, p. 156.**

**TITLE.**

**AN ACT** to amend Act No. 302 of 1910 (The Commission Form of Government Act) by adding thereto three additional sections providing for cities between twenty-five thousand and fifty thousand inhabitants, that has already voted to come under the provisions of Act No. 302 of 1910 may by referendum vote reduce the number of the Commission Council from five to three, viz.: A mayor and two commissioners, and specifying their departments and duties, fixing their salaries, or may by a referendum vote increase the present salaries allowed by Act No. 302 of 1910, so that in such cities the mayor shall receive a salary of four thousand six hundred dollars and the four commissioners a salary of thirty-six hundred dollars each, and further providing that the first referendum election must embrace both proposed changes to be voted on at the same time, thereafter, however, the proposed changes may be voted upon separately and disconnected with each other, providing such referendum elections shall only be held once within four years, and providing for the manner of holding such elections.

**CITIES WHICH MAY ADOPT COMMISSION FORM, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That an additional section to Act No. 302 of 1910 (known as the Commission Form of Government Act) approved July 7, 1910, be added as follows:

That any city having a population between twenty-five thousand and fifty thousand inhabitants according to the last United States census preceding such election, that has already voted to come under the provisions of Act No. 302 of 1910 of the General Assembly of Louisiana, may at a referendum election held of the qualified voters of such city, adopt the following changes in their present form of government.

First. That such city shall be governed by a council consisting of the Mayor and two Councilmen; chosen as provided in Act No. 302 of 1910, each of whom shall have the right to vote on all questions coming before the council, two members of the council shall constitute a quorum, and the affirmative vote of two members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure. That the council shall have and possess, and the council and its members shall exercise all executive, legislative, judicial and administrative powers, duties and functions now had, possessed and exercised by the municipal authorities, and officers elected or appointed under the authority of the several charters of the cities as organized prior to the adoption of Act No. 302 of 1910 and subsequent thereto, and the powers conferred by said Act No. 302 of 1910, unless otherwise provided in this act.

And the powers and duties shall be distributed into and among three departments, as follows:

1. Department of Public Affairs, Finance, Accounts and Police Department.
2. Department of Public Utilities and Fire Department.
3. Department of Streets and Parks.

The Mayor shall be superintendent of the department of public affairs, finance, accounts and the police department and shall receive an annual salary of five thousand dollars (\$5,000.00); one councilman shall be superintendent of public utilities and the fire department and shall receive an annual salary of four thousand dollars (\$4,000.00); the other councilman shall be superintendent of the departments of streets and parks and shall receive an annual salary of four thousand dollars (\$4,000.00). The candidate for councilmen shall designate the departments for which they desire to be elected.

The Mayor and Councilmen shall give their entire time and attention to their respective offices.

Second. Any city over twenty-five thousand and under fifty thousand inhabitants, as heretofore provided in this act, may change their present form of government by increasing the salaries of the mayor and councilmen as follows:

The mayor shall receive an annual salary of four thousand dollars (\$4,000.00); and the four councilmen shall each receive an annual salary of thirty-six hundred dollars (\$3,600.00). The mayor and councilmen to give their entire time and attention to the duties of their respective offices.

#### **REFERENDUM ELECTIONS.**

Sec. 2. Be it further enacted, etc., That the mayor of any city of over twenty-five thousand and under fifty thousand inhabitants having already come under the provisions of Act No. 302 of 1910, shall within five days after this act shall become a law, given notice by his official proclamation of a referendum election to be held by the qualified voters of the said city of a referendum election to be held at the end of twenty days to determine as to whether the said city shall adopt either of the proposed changes to its government as heretofore set forth in this act, and at such election there shall be three propositions submitted under this act; first, shall the Commission Council be reduced from five to three members as provided by Act No. — of 1918; secondly, shall the salaries of the present Commission Council be increased so the mayor shall receive \$4,000 and the councilmen \$3,600, as provided by Act No. — of 1918; third, shall Act 302 of 1910 (the Commission Form of Government Act) remain unchanged, provided, if an enabling act providing for the Commission Manager Form of City Government shall have been enacted into law, that at the same elec-

tion the voters may have submitted to them at such referendum election the proposition of changing from the provisions of Act 302 of 1910 to the said new form of government.

**SUBMISSION OF CHANGES TO VOTERS.**

Sec. 3. Be it further enacted, etc., That any of the three proposed changes in the city government of cities having a population of between twenty-five thousand and fifty thousand must receive a majority of the votes cast at the election held for that purpose; if no one of the proposed changes of city government contemplated by this act receives a majority of the votes cast in the election held for that purpose as provided for in this act, then and in that event the two proposed changes or propositions receiving the highest number of votes, shall be again submitted to the qualified voters of such city, at an election to be held on the second Tuesday from the date of the first election, which election the mayor shall give notice by his proclamation, and the proposed changes or propositions receiving the highest number of votes, in such election, shall prevail, and the city government of such city shall be changed accordingly, and as to such change shall be governed by the provisions of this act.

**AMENDMENT OF CHARTERS.****Act 31, E. S. 1915, p. 64.****TITLE.**

AN ACT to authorize and empower all municipal corporations in the State containing a population exceeding two thousand five hundred to amend their charters by incorporating therein in substance, Act No. 23, of the General Assembly of the year 1914, as relates to sidewalks or streets, or both, so as to confer additional power on them relative to the paving, and re-paving of streets or sidewalks, such amendment to be made in a certain prescribed manner.

Section 1. Be it enacted, by the General Assembly of the State of Louisiana, That all municipalities in the State containing a population exceeding two thousand five hundred are hereby authorized and empowered to amend their respective charters by incorporating therein, in substance, Act No. 23, of the General Assembly for the year 1914 as relates to sidewalks or streets, or both, so as to confer additional power on them relative to paving and re-paving of streets and sidewalks, or either, substantially as provided by said Act No. 23.

Sec. 2. Be it further enacted, etc., That such amendment shall be made as follows, to-wit: The mayor and board of aldermen or commission council may prepare, in writing, the desired amendment, have the same published for three weeks in a newspaper published in the municipality, if there be one, and, if none, then by posting for said time in at least three public places therein; the proposed amendment shall then be submitted to the Governor who shall submit it to the Attorney General for his opinion. If the Attorney General be of the opinion that the proposed amendment is consistent with the Constitution and laws of the United States and of this State and with this Act, the Governor shall approve it. If after publication more than one-tenth of the qualified electors of the municipality shall protest against the proposed amendment, the Governor shall not approve it, until it has been submitted to, and ratified by a majority of the electors of the municipality. The amendment when approved by the Governor shall be recorded at the expense of the municipality, in the office of the Secretary of State, and upon the records of the Mayor and Board of Aldermen, or the commission council, and, when so recorded, shall have the force and effect of law.

Note. Act 23, 1914, p. 64 is not printed in this edition. The Act itself amends certain sections of the charter of the city of New Orleans, it is therefore a local act having no place among the laws general to the State, except in so far as the Sections relating paving, etc., of streets are made general by this act.

**NOMINATION OF MUNICIPAL OFFICERS.****Act 230 of 1914, p. 460.****TITLE.**

**AN ACT providing for the nomination of candidates for mayor and commissioners in municipalities throughout the State; to regulate the method of nomination, and providing for the violation thereof, and to repeal all conflicting laws.**

**NOMINATIONS TO BE BY PRIMARY ELECTIONS.**

**Section 1.** Be it enacted, by the General Assembly of the State of Louisiana, That in all cities which have adopted the commission form of government in accordance with Act 302 of 1910, of Act 207 of 1912, the candidates for mayor and commissioners and any other elective officers provided for in the charter of said cities, shall be nominated in a primary election to be held not less than seventy, nor more than ninety days prior to the general election.

**ELECTIONS TO BE HELD UNDER GENERAL LAWS.**

**Sec. 2.** Be it further enacted, etc., That the said primary election shall be held in accordance with the general primary election laws of the State of Louisiana governing the nomination of parochial officers for parishes and municipal officers for municipalities, and shall be under the control and government of a municipal executive committee of the political organization holding said primary; and all returns shall be made to said committee, which is authorized to declare the nominee of the political organization holding said election.

**WHEN SECOND PRIMARIES SHALL BE HELD.**

**Sec. 3.** Be it further enacted, etc., That in the case of any candidate not receiving a majority of all the votes polled at the first primary, the two candidates receiving the highest number of votes shall enter a second primary to be held not more than four weeks after the first primary, and the candidate receiving the highest number of votes in the said second primary shall be declared the nominee of the political organization holding same.

**NOMINATION WITHOUT ELECTION.**

**Sec. 4.** Be it further enacted, etc., That in case there is only one candidate for any position to be voted on by the duly qualified electors of the political organization holding said primary, the Executive Committee of said political organization shall be authorized to declare the said candidate the nominee without holding any primary election.

**EXPENSE OF PRIMARY ELECTION.**

**Sec. 5.** Be it further enacted, etc., That the expense of holding said primary election for the nomination of municipal officers shall be defrayed by the political organization holding same, and it shall have full supervision of the printing of the tickets and the distribution of same in accordance with all needful rules and regulations it may adopt governing said primary election.

**SELECTION OF COMMISSIONERS OF ELECTION.**

**Sec. 6.** Be it further enacted, etc., That the executive committee of the political organization holding said primary shall select the commissioners of election to conduct the same; and no person shall be permitted to vote in the said primary unless he is duly registered as a member of the political organization conducting the said primary election for the nomination of candidates for municipal officers.

**CONDUCT OF ELECTIONS.**

**Sec. 7.** Be it further enacted, etc., That the said election shall be conducted in all particulars the same as may be provided in the general

primary election laws of the State, and any violations of said primary election laws shall be subject to the same penalties as is provided in the said statutes in every particular; and to that end the said primary election laws be made to apply fully and in all respects to the nomination of candidates for municipal officers as set forth herein, and said primary election laws is not to be repealed in any sense unless there is a conflict between same and any of the provisions of this Act. Said general primary election law is to be in full force and effect.

**WHEN PARISH EXECUTIVE COMMITTEE ACTS.**

Sec. 8 Be it further enacted, etc., That in case there is no municipal executive committee of any political organization, the primary election herein providing for the nomination of municipal officers shall be called and held under the supervision of those members of the parish executive committee who reside within the municipality where the election is held, and the said members of the parish executive committee are fully authorized to call such election and select the commissioners and adopt all the rules and regulations governing same not inconsistent with the primary election laws of the State; and they shall also provide for the election and organization of a municipal executive committee at the same time as the election is held for the municipal officers.

Sec. 9. Be it further enacted, etc., That any and all laws in conflict herewith be, and the same are hereby repealed, and this act shall take effect from and after its passage.

**INCORPORATION OF VILLAGE SITES, ETC.**

**Act 181 of 1902, p. 345.**

**TITLE.**

**AN ACT** providing the manner in which city, town or village sites shall be laid out and founded before same can be incorporated as a political municipal corporation; and prescribing a penalty for a non-compliance with its provisions.

**SURVEY AND RECORDING OF MAPS.**

Section 1. Be it enacted, by the General Assembly of the State of Louisiana, That in any case, which any person may, hereafter, desire to found a city, town or village on his land, in this State, such person shall cause a survey of the land upon which the site of the city, town or village is to be located and founded, and to file a plat thereof, neatly made on good and durable tracing cloth, in the office of the recorder of the parish in which the same is situated, describing its exterior boundaries according to said survey; also giving the name of the city, town or village to be founded, and exhibiting its streets, alleys, sidewalks, or paths, squares if any, blocks and lots and giving the size of the same, with the measurements; the names and numbers of the streets and alleys; the names of the public squares; the number of the blocks and of each lot in the various blocks.

**WIDTH OF STREETS.**

Sec. 2. Be it further enacted, etc., That all streets shall be not less than 50 feet wide, crossing each other at right angle and on each side of each street there shall be a sidewalk or banquette, of not less than ten feet wide.

**DEDICATION OF STREETS, ETC., TO PUBLIC.**

Sec. 3. Be it further enacted, etc., That in any way and all cases in which any person shall have surveyed, divided and platted any portion of land for city, town or village site, as aforesaid, he shall be required, further, to execute and cause to be recorded in the office of the recorder of the parish, in which said land may be situated, an act in which he shall

dedicate the use of the streets, alleys and sidewalks to the traveling public; and the purpose of recreation and peaceable amusement by the people, and the purpose of being ornamented with shrubberies and shade trees, by the corporation or private individuals.

#### **CHARTER NOT GRANTED UNTIL THIS ACT COMPLIED WITH.**

Sec. 4. Be it further enacted, etc., That until the foregoing provisions shall have been fully complied with, no act of incorporation or charter to any city, town or village shall be granted or recognized, as having any goevrntmental municipal existence or standing in this State; and any act or acts of any person or persons pretendig to act in any official capacity for the local government of any city, town or village laid out, founded, chartered or organized contrary to or in disregard or violation of any provision of this act shall be illegal and have no bindig force and effect and shall be null and void; provided that the provisions of this act shall not apply to cities, towns or villages already laid out.

#### **REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That this act shall take effect from and after its promulgation.

### **DISSOLUTION AND RESCISSION OF CHARTERS.**

**Act 173 of 1894, p. 215.**

#### **TITLE.**

AN ACT providing for the dissolution and rescission of charters of incorporated towns having a population under one thousand inhabitants.

#### **PETITION TO DISSOLVE MUNICIPALITY.**

Section 1. Be it enacted, by the General Assembly of the State of Louisiana, That whenever a petition addressed to the mayor of a town having a population under one thousand inhabitants, by a majority of the taxpayers of that town praying for the dissolution or rescission of the charter of said town it shall be the duty of said mayor to immediately order a special election; and if at said election two-thirds of the property taxpayers residing within the corporate limits of said town shall vote in favor of dissolution then said charter shall be ipso facto dissolved and rescinded and the mayor and board of aldermen or trustees of said town then in office shall liquidate the affairs of said town as speedily as possible.

#### **ELECTION FOR THAT PURPOSE.**

Sec. 2. Be it further enacted, etc., That said election shall be preceded by a notice of ten days in a newspaper in said town or if there be none, by posting as required in sheriff's sales.

#### **POLLING PLACES.**

Sec. 3. Be it further enacted, etc., That said mayor shall designate the polling place and three commissioners of election as well as the manner of counting the votes and making the returns.

#### **VOTERS.**

Sec. 4. Be it further enacted, etc., That at all such elections, all property taxpayers qualified to vote under the election laws of the State and living within the corporate limits of said town shall be entitled to vote.

#### **LIQUIDATION OF DEBTS.**

Sec. 5. Be it further enacted, etc., That if in the liquidation of the affairs of said town it shall be necessary to raise money to pay any indebtedness of said town then the said mayor and board of aldermen or trustees continuing in office till the final and complete settlement of the said town shall levy a tax sufficient to meet the said indebtedness, on all

the property, subject to taxation, situated within the corporate limits of said town, and shall collect the same through such officer as shall be designated by said mayor and board of aldermen or trustees.

**BALANCES GO TO SCHOOL BOARD.**

Sec. 6. Be it further enacted, etc., That if after paying all the debts of said town there shall remain any balance of money the same shall be turned over to the school board of the parish to be used in the education of the children of school age residing within the territory covered by said town.

**ADOPTION OF CODES.**

**Act 156 of 1910, p. 235.**

**TITLE.**

AN ACT granting to cities having a population of more than 10,000 inhabitants, the power to adopt a code or codes embracing all the laws which they are now, or hereafter may be empowered to act, in the same manner as a single ordinance is now permitted to be adopted.

Section 1. Be it enacted, by the General Assembly of the State of Louisiana, That municipal corporations having a population of more than 10,000 inhabitants be, and they are hereby granted the power to adopt a code or codes embracing all the laws, or parts thereof, which they are now or hereafter may be empowered to enact.

Sec. 2. Be it further enacted, etc., That this act shall have no effect on the by-laws and ordinances of such cities until such time as a code, or codes, are adopted in accordance herewith.

Sec. 3. Be it further enacted, etc., That in all cases where a city hereafter adopts a code or codes as herein provided for, new laws or ordinances shall be in the form of amendments to said code, or codes, provided that in the adoption of the code due promulgation thereof shall be considered as having been made when the title thereof shall have been published for thirty consecutive days in one or more newspapers in the city proposing said code. All subsequent amendments to said code shall be published in the usual manner.

Sec. 4. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**STATUS OF TERRITORY ANNEXED TO MUNICIPALITIES.**

**Act 101 of 1896, p. 150.**

**TITLE.**

AN ACT defining the status of territory, (and the inhabitants thereof), annexed to, and incorporated in, cities and towns in this State having a population of less than fifty thousand inhabitants and granting to such territory all the rights and immunities enjoyed by said cities and towns under their charters.

Be it enacted by the General Assembly of the State of Louisiana; That whenever the corporate limits of any city or town, in the State of Louisiana, having a population of less than fifty thousand inhabitants, shall be extended by annexing thereto adjoining territory, under the laws relating to that subject, the said annexed territory and inhabitants thereof, shall enjoy, as to themselves and their property therein, all the rights, immunities, and privileges granted and enjoyed under the terms of the charter of the city or town to which said territory shall be joined, in the same manner in every particular as though the territory so incorporated has formed part and parcel of the original incorporation.

**PLATS OF PROPERTY INTO SQUARES AND TOWN LOTS  
TO BE RECORDED.**

**Act 134 of 1896, p. 189.**

**TITLE.**

AN ACT to require all persons owning real estate who desire to plat the same into squares or town lots to file in the office of the keeper of notarial records of the parish where the property is situated maps of such proposed towns or tracts of land before selling any part of same, and declaring any violation of this act to be a misdemeanor and providing a penalty for the violation hereof.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the owner or owners of any real estate situated in this state shall desire to lay off the same into squares or lots with streets or alleys between such squares or lots and with the intention of selling or offering for sale any of said squares or lots it shall be the duty of such owner or owners of such real estate, before selling any square or lot or any portion of same, to be caused to be made and filed in the office of the keeper of notarial records of the parish wherein such property is situated and copied into the Conveyance Record Book of such parish, a correct map of the real estate so divided, which said map shall contain the following:

1. The section, township and range in which such real estate lies, or subdivision thereof, according to government survey.
2. The number of squares by numerals from 1 up, and the dimensions of each square in feet and inches.
3. The number of each lot or subdivision of a square and its dimensions in feet and inches.
4. The name of each street and alley, its length and width in feet and inches.
5. The name or number of each square or plat dedicated to public use.
6. A certificate of the parish surveyor of the parish wherein the property is situated in the correctness of the map.
7. A formal dedication made by the owner or owners of the property or their duly authorized agent of all the streets, alleys and public squares or plats shown on the map to public use.

Sec. 2. Be it further enacted, etc., That any person or persons, agent or attorney in fact, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction before the District Court shall be fined not less than ten dollars nor more than five hundred for each offense.

Sec. 3. Be it further enacted, etc., That it shall be the duty of all clerks and ex-officio recorders and notaries public in all the parishes of this State, the Parish of Orleans excepted, to refuse to place on record any deeds of sale of property coming under the provisions of this act, until the provisions of this act shall have been complied with; and to report to the District Attorney all violations of this act.

**TIME FOR LEVY OF MUNICIPAL TAXES.**

**Act 109 of 1882, p. 161.**

**TITLE.**

AN ACT fixing the time for the levy of municipal taxes, and prescribing a penalty for delinquents in the payments thereof.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the municipal corporations of the State shall, once in each and every year, between the first of May and thirtieth of June, and not

oftener, lay an equal and uniform tax upon all real and personal property within its corporate limits, as prescribed by and under the limitations imposed by law for the current year, which said tax shall be due and payable at the proper office of said municipal government immediately after said levy, or as soon thereafter as the tax bills can be prepared.

Sec. 2. Be it further enacted, etc., That upon the municipal taxes not paid and delinquent thirty (30) days after the completion of the tax bills, there shall be and is hereby imposed an interest penalty of ten (10) per centum per annum on the amount of the tax due, which shall be collected by the municipal corporation, together with and in the same manner as the tax.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict, inconsistent or contrary to the provisions of this act be and the same are hereby repealed, but all other parts of all laws on the same subject matter shall continue in force.

## TO ENFORCE COLLECTION OF TAXES.

### Act 119 of 1882, p. 167.

#### TITLE.

AN ACT to enforce the collection of any and all taxes, licenses, claims or debt due to the political corporations of the State.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That political corporations may through the administrator of finance, treasurer or such other officer or officers, whose duty it shall be to receive and collect the taxes and moneys due said corporations, enforce the collection of any and all taxes due it, within such time and in the manner provided by existing State laws, or in the manner that may hereinafter be provided by State laws, relative to the collection of taxes due to the State.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict, inconsistent or contrary to the provisions of this act be, and the same are hereby repealed.

Note. This act imposed upon the treasurer of the municipality the duty to collect the taxes, without additional pay for his services and a municipality is without authority to relieve the treasurer of that function and entrusting it to another. Gurley vs. City of New Orleans, 41 A. 75. The lien taxes due the city of New Orleans for the years 1880 and 1882 prescribes but the city remains an ordinary creditor for the amount thereof. Suc. of Stewart, 41 A. 129. Since the States imposes the penalty of two per cent per month on delinquent license payers, the city under this act is also entitled to impose the penalty. City of New Orleans vs. Pontchartrain R. R. Co. et al., 41 A. 520. Under the Act (119, 1882) the city may advertise and sell property. Carre vs. City of New Orleans, 41 A. 998. This Act (119, 1882) confers upon municipal authority the right to pursue all remedies provided for the collection of State taxes, then in existence or thereafter to be enacted. State ex rel Prequet vs. Fernandez, 49 A. 764; in re Lindner, 114 L. 895, Board vs. Wilkins Co. 125 L. 134. The act is permissive not compulsory and the tax collector for a municipality may proceed so far as to advertise the property for sale, to adjudicate it to the corporation and abandon further proceedings for the collection of the tax. State ex rel Benedict vs. City of New Orleans, 112 L. 498. See note to Act 98, 1898, infra.

## COLLECTION OF LICENSES BY SUMMARY PROCESS OF RULE.

### Act 98 of 1898, p. 123.

#### TITLE.

AN ACT to provide for the collection of licenses due municipal corporations of the State by the summary process of rule.

Be it enacted by the General Assembly of the State of Louisiana, That if any person shall conduct a business in the limits of any municipal corporation of the State without obtaining a license from said corporation so

to do, when said corporation requires that a license shall be obtained, the said corporation shall have the right, through its proper officers, to proceed against the person by the summary process of rule to show cause on the fifth day exclusive of holidays after the service thereof, which may be tried out of term times, and in chambers, and shall always be tried by preference, why said party or parties should not pay the amount of license claimed and penalties, or be ordered to cease from further pursuit of said business until after having obtained a license; and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the municipal corporation for the amount decreed to be due by the defendant for license, penalty and costs and shall be executed in the same manner as other judgments and every violation of the order of the court shall be considered as a contempt thereof and punished according to law.

Be it further enacted, etc., That all laws or parts of laws in conflict with this act be and the same are hereby repealed.

*Note.* An order made on a rule taken under this act is a judgment in favor of the State for licenses, penalties and costs and may be executed as other judgments are, and violations of the judgment constitute contempt of court. Village of Dodson vs. Payne, 133 L. 1057.

### SALE OF PROPERTY BID IN FOR TAXES.

Act 93 of 1896, p. 134.

#### TITLE.

AN ACT to provide for the sale of property bid in for, and adjudicated to the municipal corporations of the State for taxes for the year 1880 and subsequent years; to provide how the property shall be advertised and for the manner in which sales shall be made; to establish the effect of the deed of sale and the validity of sales under this act; to establish the prescriptions of all actions to annual sales under this act; and to limit the responsibility and guarantee of the municipal corporations for the refunding of the price of sales under this act; to provide for the payment of all costs out of the proceeds of sales, and to limit the responsibility of the municipal corporations to the amounts realized from said sales; also giving parties interested the right up to day of sale to settle taxes due.

#### ADVERTISEMENT OF PROPERTY BID ON BY MUNICIPALITY.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it is hereby made the duty of each collector of taxes of the municipal corporations of the State to prepare within two months after the expiration of the year in which property must be redeemed, or as soon thereafter as possible, a complete list of all immovable property bid in for and adjudicated to the municipal corporations for taxes due them for the year 1880 and subsequent years, as shown by the records in the Conveyance Office, or in the office of the Recorder of Mortgages, which have not been otherwise disposed of by the said corporation and not redeemed within the time prescribed by law, and when he shall have done so, it shall be his duty to proceed at once to advertise for sale all immovable property appearing upon said list and which has been heretofore bid in for and adjudicated to the municipal corporations for the unpaid taxes of 1880, and subsequent years, and which has not been redeemed within the time prescribed by law, and all property which may be hereafter adjudicated to municipal corporations for unpaid taxes and not redeemed within the time prescribed by law, that all such property shall be advertised thirty days, and in English only, the last advertisement to occur on the day on which the property is advertised to be sold; such advertisement to be a full and complete notice to all persons and parties in anywise interested in said property, and as a complete citation to all. The assessment for each respective year for which property has been adjudicated to the said municipal corporations for unpaid taxes, is hereby declared to be legal and bind-

ing in every respect on parties who may have been interested in said property, and the titles to the municipal corporations, as required under said adjudication, are hereby declared good and perfect.

The tax collectors of the municipal corporations are hereby instructed to advertise such property by a condensed description, and in the deed of sale the collector shall more fully and correctly describe the property; such advertisement shall contain only the name of the party whose name the property adjudicated to the municipal corporations or only the name of the party who claims to be the owner thereof, and the year for which adjudicated and the amount of adjudication. If the sales advertised to take place on a certain day are not completed on said day, the same shall be continued over from day to day until the same are completed. In advertising said property for sale, the collector shall include between one general heading and one general conclusion several pieces of property.

**ADJUDICATION MINIMUM PRICE.**

Sec. 2. Be it further enacted, etc., That said property shall be adjudicated to the last and highest bidder for cash, payable in current money of the United States, at the time of the adjudication, provided that no bid shall be accepted or sale made for a less amount than the total amount for which the property was adjudicated to the municipal corporation, together with twenty per centum therein and all costs of enforcing this act.

**PROCEEDINGS WHERE PROPERTY NOT SOLD.**

Sec. 3. Be it further enacted, etc., That when any property sold to the municipal corporations for unpaid taxes has been once advertised and offered for sale in accordance with the provisions of this act and has failed to sell, then the council of the said corporations shall be authorized to receive bids for all such unsold property and authorize the mayor to execute a deed thereto; provided, no sale shall be made for a less amount than is provided for in the foregoing section.

**DEED TO PURCHASER—RECITALS.**

Sec. 4. Be it further enacted, etc., That each collector shall, as soon as said adjudications to bidders are made and complied with, execute to each purchaser, a deed of sale, in authentic form, of each specific piece of property, a duly certified copy of which deed shall be *prima facie* of the following facts:

(1) That the property conveyed in said deed was subject to taxation at the time of the assessment thereof.

(2) That none of the taxes for which said property was adjudicated to the municipal corporation were paid.

(3) That the property was not redeemed in the time prescribed by law, and the said duly certified copy of said deed shall be conclusive evidence of the following facts:

(1) That the property was listed and assessed according to law.

(2) That the taxes were levied according to law.

(3) That the property described in said deed was adjudicated to the municipal corporation according to law.

(4) That the property was advertised according to law.

(5) That the property was adjudicated and sold to the purchaser as stated in said deed.

(6) That all the prerequisites of law were complied with by all the officers from the listing and assessments of said property inclusive up to and including the execution and registry of the deed to the purchaser, the duly certified copies of said deeds shall be full proof of all contained therein; the proof of payment of only a portion of the taxes for which the property was adjudicated to the municipal corporation, shall not in any manner affect the validity of the sale to the purchaser, and in order to invalidate the sale to the purchaser, it shall be necessary for the party attacking

to prove that all the taxes for the year for which the property was adjudicated to the corporation had been paid before the adjudication to the said corporation, or that the property was redeemed according to law, for all the year for which it was adjudicated to the municipal corporation, or that the same was exempt from taxation for all the year for which it was adjudicated to the municipal corporation.

#### **TITLE VESTED IN PURCHASER.**

Sec. 5. Be it further enacted, etc., That all the sales under this act, shall vest in the purchaser an absolute and perfect title to the property conveyed in the deed of sale, without any claim thereto by any former owner, and free from all mortgages, liens, privileges and encumbrances whatsoever, except all state and parish taxes; upon presentation of a duly certified copy of the deed in any court having jurisdiction, of the value of the property, it shall be the duty of the judge thereof, to issue an order "ex parte" and in chambers directly to the sheriff, commanding him to forthwith seize the property described in said deed, and after three days notice of such seizure to either the occupant or former owner of said property the sheriff shall put the purchaser into possession of said property, unless enjoined by a court having jurisdiction of the property. If the property is vacant it shall be necessary for the sheriff to post for one week, in some conspicuous or usual place, a copy of the notice of seizure, after which delay, unless enjoined, he shall put the purchaser in possession, all actions to declare null and void or to invalidate sales made under this act, for any cause, whether because of the payment of taxes, or for any other reasons, and all actions to subject the property sold under this act, to any mortgage or claim which existed before the sale to the purchaser, are hereby prescribed by the lapse of one year from the date of registry in the conveyance office of the deed to the purchaser at which time all liability and guarantee of the municipal corporation shall also cease for the refunding of the price of sale under this act.

#### **PRICE PAID IN FULL PAYMENT OF TAXES.**

Sec. 6. Be it further enacted, etc., That the price bid and paid for said property shall be in full and final payment and satisfaction of all taxes due municipal corporations, together with all costs thereon due and exigible at the time the property was adjudicated to the said corporation, and the purchaser shall take said property subject to all subsequent taxes, state, parish and municipal.

#### **COSTS TO BE PAID OUT OF PROCEEDS.**

Sec. 7. Be it further enacted, etc., That the collector is authorized to pay out of the proceeds of the sale under this act all costs incurred in enforcement of this act, the cost and expense of passing, and executing and registering the deeds under this act and for copies of same, shall be paid by the purchaser in addition to the price bid for said property.

#### **REDEMPTION BY OWNER.**

Sec. 8. Be it further enacted, etc., That the owner of property advertised under this act or any other person interested in having it kept from sale, shall up to the day of sale have the right by paying to the collector all the taxes for which it is advertised—together with twenty per centum thereon and all costs—as well as all other municipal taxes that may have become due since the property was sold to the said corporation, to receive from the collector an authorization to the clerk of court to cancel the sale of the property to the municipal corporation.

#### **REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with the provisions of this act are hereby repealed.

**RIGHT TO LICENSE TAXES—HOW OBTAINED FROM  
POLICE JURY.****Act 165 of 1894, p. 203.****TITLE.**

**AN ACT** giving the right to incorporated cities or towns of the state to demand from the Police Juries of their respective parishes, the licenses collected annually by the parishes from the cities and towns, on all business, trade, professions and occupation carried on within said cities and towns less the criminal expenses, public school expenses, and all other expenses paid out by the parishes on account of said cities or towns, and providing that the tax collected by the parishes on the properties situated in the cities and towns be first exhausted in paying these expenses, and providing how these expenses are to be ascertained.

**DEMAND ON POLICE JURY FOR LICENSE TAXES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the incorporated cities and towns of the state, through the mayor or any other person authorized by their council, shall have the right to demand and have paid over to them by the police juries of their respective parishes, all the licenses collected annually by the parishes on all businesses, trades, professions and occupations carried on within said cities or towns, less the criminal and public school expenses, and all other expenses, paid out by the parishes on account of the cities or towns.

**EXPENSES WHICH SHALL BE PAID OUT OF FUND.**

Sec. 2. That each city or town taking advantage of this act, shall be required to defray all expenses occurring from and growing out of the prosecution of crimes, offenses and misdemeanors committed within its corporate limits, also all expenses for running, conducting and maintaining the public schools in its corporate limits and all other expenses paid by the parish on account of the city or town.

**APPLICATION FOR TAXES.**

Sec. 3. That the city or town wishing to take advantage of this act, shall apply through its mayor or any person authorized by its council for that purpose, to the police jury of the parish at its first meeting of each year, and the police jury shall grant the demand and shall at that meeting advise its collector and treasurer of the demand, instruct them that all taxes, licenses and other monies collected by the parish on all properties, businesses, trades, professions and occupations, situated or carried on within said cities or towns, shall be kept separate from all other funds and not paid out except as herein provided.

**RECORD OF EXPENSES PAYABLE OUT OF FUND.**

Sec. 4. That the clerk of the District Court of the parish shall keep a record of the expenses occurring through his office to the parish on account of the city or town, and the sheriff of the parish shall keep a record of such expenses occurring through his office. The president of the school board shall keep a record of the expenses for running, conducting and maintaining the public schools of the city or town.

**STATEMENT OF LICENSES COLLECTED.**

Sec. 5. That at the second meeting of the police jury of the year succeeding the one the demand was made, the collector of the parish shall present to the police jury a statement certified to by the Treasurer of the amount of taxes, licenses and other monies collected by him on all properties, businesses, trades, professions and occupations, situated or carried

on within the limits of the city or town for the preceding year, and the police jury shall order a warrant drawn on the treasurer of the parish in favor of the mayor of the city or town for the amount of the licenses collected by the parish aforesaid, less the collector's and treasurer's percentage on same, which shall be the same as that of the state and parish, and less the amounts of criminal and public school expenses and all other expenses paid out by the parish on account of said city or town for that year. The criminal expenses shall be based upon the statement of the clerk of the court and of the sheriff made in writing under oath, and the public school expenses shall be based upon a statement made in writing under oath by the president of the school board of the parish; provided that all expenses of whatever nature paid out by the parish on account of the city or town taking advantage of this act, shall be paid out of the taxes collected on properties situated in said city or town and out of monies other than licenses collected from said city or town; and if these amounts be not sufficient, then the license fund collected from said city or town or a sufficient amount thereof is to be taken to make up the deficiency and the balance of the licenses is to be paid over to the city or town, and provided further, that any surplus remaining from the taxes and other monies, other than licenses collected by the parish from the cities or towns, shall be used by the parish as they deem proper.

**WHAT INCLUDED IN SUCH EXPENSES.**

Sec. 6. That under the head of criminal expenses in this act, shall also be included the fees and charges of the magistrates and constables and other expenses growing out of and attending the prosecution before magistrates of crimes, offenses and misdemeanors committed within the corporate limits of said city or town, and the magistrates and constables shall be required to keep a separate account of these expenses, and the clerk of the police jury shall also keep a separate account of the amounts paid out by the police jury for such services, and on account of all other expenses not above provided for which shall be paid out by the parish on account of said city or town. Under the head of criminal expenses shall also be included a pro rata of expenses of the cities and towns for building, maintaining and repairing the jails and courthouses belonging to the parishes, the pro rata to be fixed by the police juries.

**RESULT WHERE COLLECTIONS FAIL TO MEET EXPENSES.**

Sec. 7. If the amounts collected by the parish from the city or town are not sufficient to pay the criminal, public school expenses and other expenses of the city or town paid out by the parish, the parish shall have the right to refuse to grant the city or town the privilege of this act for another year and shall also so continue to refuse until it has been shown by the city or town to the satisfaction of the police jury that the taxes, licenses, and other monies collected by the parish from the city or town on account of accumulation of property and business or otherwise are sufficient, providing that no parish shall have the right to refuse any city or town applying under this act, until by an actual test under it of one year, it is shown that the expenses of the city or town to the parish are more than the taxes, licenses and other monies collected by the parish from the city or town.

**ACT NOT APPLICABLE TO LEVEE TAXES.**

Sec. 8. That this act shall not apply to taxes collected for levee purposes.

**REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act, be and the same are hereby repealed.

Note. The right of a parish to collect license taxes within the limits of a municipal corporation ceases as soon as the latter has by its action, exempted itself from

liability for parish licenses. *Parish of Calcasieu vs. Avery*, 119 L. 143. Art. 171 of 1898 is a statute whereby the State makes special provision with regard to the levying and collecting of licenses not only for its own account, but for municipal and parochial corporations, and its provisions control other statutes with respect to the particular subject. *Town of Houma vs. Houma Lighting & Ice Mfg Co.*, 121 L. 21.

## MUNICIPALITIES EXEMPT FROM PARISH LICENSES.

**Act 142 of 1904, p. 313.**

### TITLE.

**AN ACT** to exempt from the payment of parish licenses, or license taxes, incorporated municipalities, levying license taxes equal in amount to those levied by police juries for parochial purposes.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all incorporated municipalities, levying license taxes equal in amount to those levied by police juries of the parishes in which they are situated, shall be and the same hereby are, exempt from the payment of parish licenses or license taxes, provided said license tax shall be used for street and sidewalk improvements, waterworks, lights, sewerage, street railways, or public school purposes.

## LIMITATION OF APPROPRIATIONS.

**Act 32 of 1902, p. 39.**

### TITLE.

**AN ACT** to amend and re-enact Act No. 30 of the General Assembly of 1877, entitled, "An act to limit the appropriations and expenditures of parishes and municipal corporations; to prohibit the issue of warrants by their officers; to permit police juries to make certain contracts, and prescribing certain penalties"; to permit police juries and municipal corporations to make contracts against future revenues within certain restrictions; to permit police juries and municipalities to issue certificates of payment and to provide the effect to be given to such certificates; and to permit municipalities to borrow money in case of public emergency.

## EXPENDITURES NOT TO EXCEED ESTIMATED REVENUE.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no police jury of any parish nor any municipal corporation in this state shall, in any one year, make any appropriation of, approve any claim against or make any expenditure from the annual revenue for that year, which appropriation, approved claim or expenditure shall, separately or together with other appropriations, approved claims or expenditures, be in excess of the estimated revenue of that year.

## PURPOSES TO WHICH REVENUES ARE DEDICATED.

**Sec. 2.** (As amended by Act 128, 1910, p. 199). Be it further enacted, etc., That the revenues of the several parishes and municipal corporations of this state of each year, shall be dedicated as follows: First, all statutory charges shall be paid from the respective funds upon which they are imposed; second, all charges for services rendered annually under time contracts; third, all necessary usual charges provided for by ordinance or resolution. Any excess of revenue above statutory, necessary and usual charges may be applied to the payments of amounts due and unpaid out of the revenues of former years. Police juries and municipal corporations shall also have authority to make, in any year, agreements or contracts dedicating in whole or in part the excess of annual revenues of subsequent years above statutory, necessary and usual charges, provided that no such agreement or contract shall have any longer terms fixed for payment than ten years from the date of the agreement or contract; except to the city of New Orleans, said city of New Orleans, being hereby authorized and em-

powered to fix the terms for payment for a period of time not exceeding fifteen years from the date of such agreement or contract; and provided further that no dedication of future revenues shall be made which, alone or together with other prior dedications in force, shall exceed the estimated excess of revenues over their statutory, necessary and usual charges of the year in which the agreement or contract is made; provided further that nothing in this act shall be taken or construed to prohibit police juries or municipal corporations from providing by ordinance or resolution for the expenditure of funds derived from miscellaneous or contingent sources actually collected; subsequent to such dedication of such funds as may be established by existing laws.

**Note.** By the adoption of Act 32 of 1902, the Act 30 of 1877 ceased to exist. Act 128 of 1910 amended Sec. 2 of the Act of 1902. At the same session of 1910 by Act 270, Sec. 2 of the act of 1902 was again amended; but as the title of Act 270 of 1910 failed to refer to Act 128 of 1910, it could not affect it, and as Act 270 failed to do that, it therefore amended Sec. 2 of the Act of 1902, which having been amended by Act 128 of 1910, had ceased to exist. If Act 270 could be so construed as to affect Act 128 of 1910, it would be in conflict with Const. Art. 31 and 32. *Mouton vs. City of Lafayette*, 130 L. 1064.

On the subject of amending statutes and acts which had been repealed see *State vs. Nelson*, 135 L. 685, on rehearing in which *Mouton vs. Lafayette* is distinguished and the entire subject carefully reviewed by Chief Justice Monroe. See also on the same subject *State vs. Walters*, 135 L. 1070.

#### CERTIFICATES OF PAYMENTS.

Sec. 3. Be it further enacted, etc., That parishes and municipal corporations shall have authority to issue certificates of payments covering that portion of the cost of public improvements which by existing laws is to be borne by parishes and municipalities under contracts payable out of the revenues of subsequent years as provided for in Section 2 of this act. Such certificates shall bear such rate of interest as may be fixed by the contracts under which they are issued, but said interest shall never exceed five per centum per annum, such certificate shall have no other effect than to furnish prima facie evidence that the contractor is entitled, for work done at the prices fixed by the contracts, to a fixed amount of money, provided all stipulations of the contracts under which such certificates have been issued have been complied with.

#### BORROWING MONEY TO MEET EMERGENCIES.

Sec. 4. Be it further enacted, etc., That municipalities shall have authority in cases of public emergency, to be determined by the municipalities, to borrow money in sums necessary to meet such emergencies, provided that payment of such sums shall be a fixed charge upon the revenues of the year next following the year in which said sums are borrowed.

#### WARRANTS NOT DRAWN UNLESS FUNDS IN TREASURY.

Sec. 5. Be it further enacted, etc., That no evidence of indebtedness or warrant for the payment of money shall be issued by any officer of any parish or municipal corporation in this state, except against money actually in the treasury of such parish or municipal corporation; provided, that this section shall not apply to the certificates of payment authorized to be issued under Section 3 of this act or to certificates issued to jurors and witnesses for their services in court.

#### VIOLATIONS, PENALTIES.

Sec. 6. Be it further enacted, etc., That any officer violating any of the provisions of this act, on conviction, shall be punished by imprisonment or fine, or both, at the discretion of the court; provided, that the fine shall not exceed one thousand dollars or the imprisonment one year.

#### REPEALING CLAUSE.

Sec. 7. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with the provisions of this act be and the same are hereby repealed.

**Note.** The act is not retrospective. *State ex rel Knollman vs. King*, Judge. 129 L. 799. Debts of the City of New Orleans of former years, can be paid only after

statutory, necessary and usual charges have been provided for out of the revenues of each year. What are necessary and usual charges is left to the discretion of the city authorities, free from the interference of the courts. *State ex rel Benedict vs. City of New Orleans*, 111 L. 374. *State ex rel Lorence vs. City*, 116 L. 8523; 119 L. 636. The appropriation of any part of the taxes of each year for the payment of a Court House, can remain in for ten years if that period is necessary, but no longer. *Dupuy et al vs. Police Jury*, 115 L. 579, *id.* 116 L. 785.

Object of act is properly expressed in the title. *Murphy vs. Police Jury of St. Mary*, 118 L. 401. *Roth vs. Town of Thibodeaux*, 137 L. 215.

Act 136 of 1898 is a general law providing for the organization of municipal corporations, and is repealed in so far as it conflicts with Acts 17 and 32 of 1902. Under the latter act it may apply the excess of its revenues over current expenses, to the maintenance of a lighting system, which under Act 17 of 1902, it was authorized to erect. The power to apply the excess carries with it the power to issue certificates to be paid out of the excess of future years. *Houma Lighting and Ice Mfg. Co. vs. Town of Houma*, 127 L. 926. The certificates so issued must be non-negotiable, and are to serve merely as prima facie evidence that the amounts represented by them are due. *Police Jury vs. Stafford*, 129 L. 466.

The Police Jury is without authority to issue certificates of indebtedness payable out of the future fixed revenues of the parish, such certificates can legally be made payable only out of the surplus of future years. *Kerrs vs. Police Jury of St. Bernard*, 131 L. 263. The excess in any year may be used to pay debts of past years. *Williams vs. Police Jury of Morehouse*, 137 L. 536.

Warrants drawn during April to July of any given year, are drawn against the taxes collected for preceding year and cannot be collected out of the revenue of the year in which they were drawn, unless there should remain a surplus after the payment of the usual and necessary expenses of this year. *Farmerville State Bank vs. Police Jury*, 138 L. 836. *Dunham vs. Town of Slidell*, 139 L. 933.

## ISSUANCE OF BONDS TO SETTLE JUDGMENTS.

### Act 32 of 1890 p. 25.

#### TITLE.

AN ACT empowering the municipal authorities of cities in the State of Louisiana (the City of New Orleans excepted), against which one or more final judgments exceeding \$50,000 have been rendered or may hereafter be rendered on contracts entered into prior to the adoption of the Constitution of 1879, to issue bonds for the purpose of funding or paying said judgments; to provide for the payment of the interest and principal of said bonds by taxation; to submit ordinances authorizing the issuing of such bonds to the vote of the property taxpayers of the city at a special election to be held for that purpose; providing for the holding and conduct of such special election, and the manner of ascertaining and promulgating the result thereof, and that such ordinances shall not become a law unless ratified by a majority in number and amount of the votes cast at such election; limiting the rate of taxation to pay bonds so issued, etc.

#### WHAT JUDGMENTS MAY BE SO SETTLED.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the council of any city in this state (the City of New Orleans excepted) against which a judgment or judgments have been heretofore rendered, or may hereafter be rendered on contract indebtedness incurred prior to the adoption of the Constitution of 1879, exceeding the sum of fifty thousand dollars, is hereby empowered and authorized to issue negotiable coupon bonds, bearing interest at a rate not exceeding six per cent per annum, said interest, payable semi-annually, and maturing in not less than twenty nor more than forty years, and to levy and collect special taxes to pay the interest and principal of such bonds, for the purpose of funding or paying said judgments, provided that bonds so issued shall not be disposed of at less than their face value, and provided further that any ordinance authorizing the issue of bonds under this act be ratified by a majority vote of the property taxpayers of the city as hereinafter set forth.

#### ORDINANCE—CONTENTS.

Sec. 2. Be it further enacted, etc., That the common council of the city desiring to avail itself of the benefits of this act, shall pass an ordinance in the form and manner required by its charter, in which said ordinance shall be set forth a detailed statement of the judgment or judgments

to be funded or paid, and said ordinance shall provide for the issue of negotiable bonds, under the corporate name and seal of the city of such form and denomination as the council may determine, to an amount sufficient to pay said judgment indebtedness and incidental costs of issuing and negotiating said bonds. Said ordinance shall moreover fix the rate of interest and maturity of said bonds under the limitations set forth in section 1 of this act; shall provide for a sinking fund and for the levy of a sufficient annual special tax on all the taxable property of said city to pay the interest coupons as they mature and the principal of said bonds at their maturity; and such ordinance, if ratified by the vote of the taxpayers as hereinafter provided, shall be irrepealable until the principal and interest of all bonds issued thereunder shall be paid in full, and it shall be mandatory on said council and its successors to levy and on the tax collector of the city to collect, from year to year, a sufficient rate of taxation on the assessed value of all taxable property within the corporate limits, to pay said interest and to provide said sinking fund.

#### **SURPLUS OF TAX.**

Sec. 3. Be it further enacted, etc., That any surplus of said special tax over and above the annual interest coupons, shall be transferred to said sinking fund also all premiums that may be realized from the sale of bonds. Said sinking fund shall be kept separate from all other funds of the city, and shall be used only for the purpose of the purchase of bonds so issued, under such rules and regulations as the council may ordain; provided, that when said sinking fund can not be so applied, it shall be invested, under the direction of the council, in United States or State bonds, the interest on which as collected shall also form a part of said sinking fund.

#### **RATIFICATION OF ORDINANCE BY PROPERTY OWNERS.**

Sec. 4. Be it further enacted, etc., That such ordinance passed pursuant to Section 2 of this act, shall be submitted for ratification or rejection to the property taxpayers of said city entitled to vote under the general election laws of the State of Louisiana at a special election to be ordered by the council after twenty days public notice, which said election shall be conducted as near as may be under the general election laws of this state. The council shall prescribe the form of ballots in such manner that not only the number of voters but the amount of property voted can be readily ascertained and returned by the commissioners of election, who together with the clerks of election shall be appointed by the council. The returns of such special election shall be made by the commissioners to the city council, which shall ascertain the result and cause the same to be promulgated.

#### **MAJORITY IN NUMBER AND AMOUNT.**

Sec. 5. And if at such special election the said ordinance be ratified by a majority of the legal votes cast, and by a majority in assessed value of the property voted by the legal voters participating in said election, then such ordinance shall have the full force and effect of a law, and the city council shall forthwith proceed to carry said ordinance into operation; otherwise said ordinance shall be null and void ab initio.

#### **RATE OF TAXATION.**

Sec. 6. Be it further enacted, etc., That the rate of taxation under the provisions of this act, together with the rate of taxation (not exceeding ten mills) necessary for alimony, shall not exceed, in any one year, the limitation of taxation, (if any) fixed by the city charter at the time the contract indebtedness evidenced by judgment, was incurred.

#### **REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws or parts of laws, contrary to or inconsistent with the provisions of this act, are hereby repealed.

**DEDICATION OF REVENUE FOR PAYMENT OF DEBTS.****Act 35 E. S. 1915, p. 76.****TITLE.**

AN ACT to authorize the parishes and municipal corporations throughout the State, the City of New Orleans excepted, to dedicate, appropriate and pledge not more than two and one-half mills of their general revenue tax, for a period not exceeding twenty-five years, for the payment of any indebtedness, matured or unmatured, exclusive of bonded indebtedness, of such parishes and municipal corporations which may have been lawfully incurred prior to May 1, 1915; authorizing the governing authorities of such parishes and municipal corporations to issue negotiable, interest-bearing certificates of indebtedness and to provide for the payment thereof; and repealing all laws or parts of laws in conflict herewith.

**DURATION OF SUCH DEDICATION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the parishes and municipal corporations throughout the state, the City of New Orleans excepted, shall have the right and authority to dedicate, appropriate and pledge not more than two and one-half mills of their general revenue tax for a period not exceeding twenty-five years for the payment of any indebtedness, matured or unmatured, exclusive of bonded indebtedness, of such parishes or municipal corporations which may have been lawfully incurred prior to May 1, 1915.

**ISSUE OF CERTIFICATES OF INDEBTEDNESS.**

Sec. 2. Be it further enacted, etc., That, evidencing such indebtedness, the governing authorities of such parishes and municipal corporations shall have the authority to issue to any creditor, his representative or transferee, a certificate or certificates of indebtedness for the amount of the debt due such creditor; provided, that two or more debts may be combined and a certificate or certificates issued for the whole. Such certificates shall be issued only when authorized by resolution or ordinance passed by the governing authority issuing them and shall be secured by dedication, appropriation and pledge of such portion of the general revenue tax of the parish or municipal corporation, not exceeding two and one-half mills, as may be provided by the governing authority, in conformity to Section 1 of this Act; provided that parishes through their governing authorities shall issue such certificates only after the indebtedness for which they are to be issued shall have been liquidated and reduced to judgment in a court of competent jurisdiction. They shall bear such rate of interest, not exceeding five per cent (5%) per annum, payable annually or semi-annually, as may be fixed by said governing authority, shall run for a period of not exceeding twenty-five years, and shall be made payable at such times and places as may be determined by the governing authority.

Such certificates shall be executed and signed by the President and Secretary or Clerk of the Police Jury of the Parish or by the Mayor and Secretary or Clerk of the Municipal Corporation issuing same, or by other officials whose positions correspond to those mentioned; provided, that the interest may be evidenced by coupons bearing fac similes of the signatures of said President and Secretary or Clerk or of said Mayor and Secretary or Clerk or of such other corresponding officials; and such certificates shall be negotiable.

**ORDINANCE—RECITALS.**

Sec. 3. Be it further enacted, etc., That, in the ordinance authorizing the issuance of such certificates, it shall be the duty of the Governing Authority to dedicate, set aside and pledge not more than two and one-half mills of said general revenue tax of said parish or municipal corporation for the payment of said certificates, in principal and interest; and, thereafter

to keep the funds derived from such tax separate from other funds of the parish or municipal corporation, and to devote the entire proceeds of such tax as pledged, or so much thereof as may be necessary, to the payment of the principal and interest of such certificates. The said fund shall not be drawn upon to the prejudice of said certificates or interest accruing thereon, by the governing authority issuing such certificates, or by its successors.

**WHAT IS NOT REPEALED.**

Sec. 4. Be it further enacted, etc., That this act shall not be construed as repealing or in any manner modifying or affecting Act 32 of 1902, or laws amendatory thereof, but that all other laws in conflict herewith be and the same are hereby repealed.

**PLEDGE OF TAX TO PAY INDEBTEDNESS.**

**Act 277 of 1916, p. 564.**

**TITLE.**

**AN ACT** to authorize the parishes and municipal corporations throughout the state, the city of New Orleans excepted, to dedicate, appropriate and pledge not more than two and one-half mills of their general revenue tax, for a period not exceeding twenty-five years, for the payment of any indebtedness, matured or unmatured, exclusive of bonded indebtedness, of such parishes and municipal corporations which may have been lawfully incurred prior to May 1, 1916; authorizing the governing authorities of such parishes and municipal corporations to issue negotiable interest-bearing certificates of indebtedness and to provide for the payment thereof; and repealing all laws or parts of laws in conflict herewith.

**RIGHT OF MUNICIPALITIES, ETC., TO PLEDGE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the parishes and municipal corporations throughout the state, the city of New Orleans excepted, shall have the right and authority to dedicate, appropriate and pledge not more than two and one-half mills of their general revenue tax for a period not exceeding twenty-five years for the payment of any indebtedness, matured or unmatured, exclusive of bonded indebtedness, of such parishes or municipal corporations which may have been lawfully incurred prior to May 1, 1916.

**ISSUE OF CERTIFICATES TO CREDITOR.**

Sec. 2. Be it further enacted, etc., That, evidencing such indebtedness, the governing authorities of such parishes and municipal corporations shall have the authority to issue to any creditor, his representative or transferee, a certificate or certificates of indebtedness for the amount of the debt due creditors; provided, that two or more debts may be combined and a certificate or certificates issued for the whole. Such certificates shall be issued only when authorized by resolution or ordinances passed by the governing authority issuing them and shall be secured by dedication, appropriation and pledge of such portion of the general revenue tax of the parish or municipal corporation, not exceeding two and one-half mills, as may be provided by the governing authority, in conformity to Section 1 of this act; provided that parishes and other municipal corporations through their governing authorities shall issue such certificates only after the indebtedness for which they are to be issued shall have been liquidated and reduced to judgment in a court of competent jurisdiction. They shall bear such rate of interest, not exceeding five per cent. (5%) per annum, payable annually or semi-annually, as may be fixed by said governing authority, shall run for a period of not exceeding twenty-five years, and shall be made payable at such times and places as may be determined by the governing authority.

Such certificates shall be executed and signed by the President and Secretary or Clerk of the Police Jury of the Parish, or by the Mayor and

Secretary or Clerk of the Municipal Corporation issuing same, or by other officials whose positions correspond to those mentioned; provided, that the interest may be evidenced by coupons bearing fac-similes of the signatures of said President and Secretary or Clerk or of said Mayor and Secretary or Clerk or of such other corresponding officials; and such certificates shall be negotiable.

**DEDICATION IN ORDINANCES AUTHORIZING ISSUES.**

Sec. 3. Be it further enacted, etc., That in the ordinance authorizing the issuance of such certificates, it shall be the duty of the governing authority to dedicate, set aside and pledge not more than two and one-half mills of said general revenue tax of said parish or municipal corporation for the payment of said certificates, in principal and interest; and, thereafter, to keep the funds derived from such tax separate from other funds of the parish or municipal corporation, and to devote the entire proceeds of such tax as pledged, or so much thereof as may be necessary, to the payment of the principal and interest of such certificates. The said fund shall not be drawn upon to the prejudice of said certificates, or interest accruing thereon, by the governing authority issuing such certificates, or by its successor.

**EXTENT OF REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That this act shall not be construed as repealing or in any manner modifying or affecting Act 32 of 1902, or laws amendatory thereof, but all other laws in conflict herewith be and the same are hereby repealed.

**DEDICATE REVENUES FOR CERTAIN PURPOSES.****Act 149 of 1912, p. 213.****TITLE.**

AN ACT to authorize all cities (City of New Orleans excepted) which are now permitted, under existing laws to levy taxes of ten mills on the dollar for general revenue purposes, to dedicate, set aside and pledge not more than two mills of said general revenue tax, for a period of not exceeding twenty-five years, for the payment of any floating or general indebtedness, exclusive of bonded indebtedness, of such cities, incurred by such cities before the passage of this Act, authorizing such cities to issue certificates of indebtedness to creditors, prescribing the rate of interest and the time of payment of such certificates, and providing for the payment thereof.

**DEDICATION OF REVENUE.**

Section 1. (As amended by Act 162, 1916, p. 387.) Be it enacted by the General Assembly of the State of Louisiana, That all cities (the City of New Orleans excepted) which are now permitted under existing laws to levy taxes of ten mills on the dollar, for general revenue purposes, shall have the right and authority to dedicate, appropriate and pledge not more than two mills of said general revenue tax, for a period of not exceeding twenty-five years for the payment of any floating or general indebtedness, exclusive of bonded indebtedness, of such cities which may have been lawfully incurred prior to May 1st, 1916.

**ISSUE OF CERTIFICATES TO CREDITOR.**

Sec. 2. (As amended by Act 218, 1914, p. 415.) Be it further enacted, etc., That as evidencing such indebtedness, the said city shall have authority to issue to any creditor, his representative or transferee, a certificate or certificates of indebtedness, for the amount of the debt due such creditor, which certificate or certificates, shall bear such rate of interest not exceeding five per cent. per annum, and may be fixed by the governing authority issuing same, which interest shall be payable semi-annually and

which certificates shall not run for a period exceeding twenty-five years. The said certificates shall be made payable at such time and places as may be determined by such municipalities.

The said certificates shall be issued only when authorized by ordinance passed by the governing authority of such cities, and the same shall be secured by pledge of said tax. The said certificates shall be negotiable, and shall be signed by the Mayor and Clerk of such cities, or officers holding positions corresponding thereto, authorized by ordinance as aforesaid.

#### **DEDICATION IN ORDINANCE AUTHORIZING ISSUE.**

Sec. 3. Be it further enacted, etc., That, in the ordinance authorizing the issuance of such certificates, it shall be the duty of the governing authority of such cities to levy, dedicate, set aside and pledge not more than two mills of said general revenue tax for the payment of said certificates, in principal and interest; and, thereafter, to keep the funds derived from such tax separate from other funds of the municipality, and to devote the entire proceeds of such tax so pledged to the payment of the principal and interest of such certificates. The said fund shall not be drawn upon, used or devoted to any other purpose, whatsoever, by the governing authority issuing such certificate, or by its successors.

#### **SINKING FUND.**

Sec. 4. Be it further enacted, etc., That it shall be the duty of cities issuing certificates of indebtedness under this act to create, out of the tax so pledged, as aforesaid, a sinking fund, and any excess, or surplus, of the proceeds of such tax, remaining after the payment of the interest due on certificates issued, shall be placed in said sinking fund to be used in the extinguishment of the principal and interest of said certificates at maturity; provided that any or all certificates issued hereunder may be redeemed at any time before maturity, at the option of such cities.

#### **EXTENT OF REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That this act shall not be construed as repealing, or, in any manner, modifying, or affecting Act 32 of 1902, or laws amendatory thereof, but all other laws in conflict herewith be, and the same are hereby, repealed.

### **BORROW MONEY—ANTICIPATE REVENUES.**

#### **Act 79 of 1916, p. 200.**

##### **TITLE.**

**AN ACT** authorizing municipal corporations, the Parish of Orleans excepted, to anticipate their revenues for the current year and to borrow sufficient money to pay their municipal expenses for such year and issue therefor negotiable certificates of indebtedness.

##### **ANTICIPATING REVENUE, BORROWING MONEY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That municipal corporations throughout the State, the Parish of Orleans excepted, in order to pay their current expenses for any year are authorized to anticipate the revenues of such year, and to borrow the money to pay such expenses and issue negotiable certificates of indebtedness covering said loan.

##### **LIMIT TO AMOUNT BORROWED.**

Sec. 2. Be it further enacted, etc., That the amount so borrowed by any corporation shall in no case exceed the estimated income of the municipality as shown by the budget adopted prior to such time, and the taxes and income collected, as shown by such budget, shall be dedicated and set aside to the payment of said certificates of indebtedness as they mature.

**CERTIFICATES MATURITY.**

Sec. 3. Be it further enacted, etc., That said certificates of indebtedness shall be made due and payable not later than December 1st of the year in which they are issued, and shall not bear a greater rate of interest than five per cent per annum, and shall be issued in such amounts and in such form as the governing body of the municipality may determine, and when issued to meet expenses as estimated shall be legal and valid obligations of the municipality issuing the same.

**CONSTRUCTION OF ACT.**

Sec. 4. Be it further enacted, etc., That nothing herein shall be construed or intended as in any manner affecting certificates already issued by municipalities, payable out of the revenues of future years, nor in any manner affecting the existing laws relative to municipalities anticipating their revenues for future years.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**RATIFICATION OF SPECIAL TAX LEVIES.****Act 3, E. S. 1899, p. 5.****TITLE.**

**AN ACT** to ratify and confirm all of the proceedings heretofore taken by the municipal corporations throughout the State, to be authorized to incur debt and to issue negotiable bonds therefor and to levy special taxes to pay the principal and interest thereof, by virtue of the provisions of Article 281 of the Constitution of 1898, and to legalize, ratify and confirm all ordinances adopted by said corporations providing for elections, submitting to the qualified electors of said municipalities, propositions for authority to incur debt, to issue negotiable bonds therefor, and to levy said special tax under said Article 281; all notices of the said elections and the elections held thereunder, and the votes cast, and voting thereat, resulting in favor of the propositions submitted as aforesaid, and to authorize the creation of the debts, issue of the bonds, and levy of the taxes proposed at said elections.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all of the proceedings heretofore taken by the municipal corporations throughout the State to incur debt and to issue negotiable bonds therefor, and to levy special taxes to pay the principal and interest thereof, by virtue of the provisions of Article 281 of the Constitution of 1898, and all ordinances adopted by said municipalities, providing for elections, submitting to the qualified electors therein, propositions for authority to incur debt, and to issue negotiable bonds therefor and to levy special taxes to pay the principal and interest thereof, under said Article 281, all notices of the said elections and the elections held thereunder, the votes cast, and voting thereat resulting in favor of the propositions submitted as aforesaid, be and are hereby recognized as taken, given, held and cast in compliance with the requirements and with full authority of law, and that the same be and are hereby fully ratified, and confirmed as legal, and that said municipal corporations be, and they are hereby authorized and empowered to incur the debts, issue the bonds, and levy the special taxes, provided for in the proceedings taken, ordinances adopted, elections held and voted for as aforesaid.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its passage.

**FUNDING AVAILS OF TEN-MILL TAX.****Act 96 of 1916, p. 214.****TITLE.**

**AN ACT** to provide the procedure for the issuance of bonds by parishes and municipal corporations under the provisions of paragraph 4 of Article 281 of the Constitution of Louisiana, providing for the funding of the avails of the ten-mill tax into bonds, and to provide for a period of estoppel wherein contests can be filed.

**NOTICE OF INTENTION TO FUND TAX.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That when a parish or municipality proposes to fund the avails of the ten-mill tax provided for by Article 282 of the Constitution, into bonds, under and by virtue of the provisions of Paragraph 4 of Article 281 of the Constitution, the governing authority of such subdivision shall first give notice of its intention to do so by publication in its official journal or in some newspaper of the locality if there is no official journal, and such notice must state the time when it is proposed to issue the said bonds and the extent of the avails of the tax that it is proposed will be used for that purpose.

**PROCEEDINGS AT MEETING HELD FOR PURPOSE.**

Sec. 2. Be it further enacted, etc., That on the day and time fixed in the foregoing section the governing authority shall meet in open session and shall first spread upon the minutes of its proceedings the budget for its current year and submitting said budget for inspection and consideration shall determine the exact surplus available from the ten-mill tax, reducing that surplus to mills and the fractions thereof, and determine how many mills or fractions thereof will be required to provide for the current expenses of the subdivision as based on the last assessment roll filed, and after consideration of all other available sources of revenue provided for in the budget.

**ISSUE OF BONDS, PLEDGE OF SURPLUS.**

Sec. 3. Be it further enacted, etc., That when an available surplus shall have been found, the governing authority will then provide for the issue of such bonds as may be deemed necessary for the constitutional public improvement in contemplation and such as can be issued by a conservative funding of said surplus into bonds. They will authorize the bond issue and will irrevocably pledge and dedicate the surplus so found to the payment of the bonds thus authorized and issued and such pledge and dedication will be irrepealable by that of any other governing authority of the subdivisions until such bonds are paid in principal and interest.

**CHARACTER OF BONDS.**

Sec. 4. Be it further enacted, etc., That all bonds issued under and by virtue of this act shall be serial, negotiable interest bearing coupon bonds maturing from one to ten years in an increasing ratio until completely paid, and shall bear five per cent (5%) interest payable annually or semi-annually, and shall be sold at not less than the price now or hereafter fixed by law, and shall first be offered for sale by calling for sealed bids after fifteen days advertisement, but under such terms and conditions as the governing authority may fix. Failure to sell after due advertisement will be warrant and authority to sell said bonds at private sale at not less than the legal price.

**RECORDING COPY OF PROCEEDINGS.**

Sec. 5. Be it further enacted, etc., That a certified copy of the proceedings of the governing authority, providing for the issuance of such bonds and the dedication of the surplus and avails, shall be recorded in the mort-

gage records of the parish, registered with the Secretary of State, and promulgated in one issue of the official journal of the subdivision issuing the bonds, and if there be no official journal, in a newspaper of the locality.

**RIGHT OF TAXPAYER TO CONTEST.**

Sec. 6. Be it further enacted, etc., That for a period of sixty days from date of publication set forth in the preceding section, any taxpayer or person in interest shall have the right to contest the validity of said bond issue or any of the proceedings leading up to the same, and after the lapse of sixty days, as above set forth, on the production of a certificate from the Clerk of Court of the Parish where the subdivision is located, that there is no litigation on the docket of his court affecting the validity of said bonds or the proceedings leading up to their issuance, the Secretary of State shall sign and seal, without charge, the following certificate:

"Incontestable. Secured by a tax of ..... mills  
on the dollar of valuation in the Parish of .....  
Louisiana, Town ..... City .....  
Registered this ..... day of .....  
(Seal) .....

Secretary of State"

and the bonds so registered shall to the extent of the dedication and pledge of revenue so made constitute a binding and irrevocable contract between the holder or holders of said bonds and the subdivision issuing the same, and the said bonds shall be protected by every possible guarantee of good faith and estopped.

**CREATION OF TRUST FUND FOR PAYMENT OF BONDS, ETC.**

Sec. 7. Be it further enacted, etc., That it is especially made the duty of the governing authority of the subdivision issuing such bonds to set aside each year as the tax collections are made, into a separate trust fund with its fiscal agent, the avails of the surplus dedicated and pledged to the payment of the principal and interest of the bonds authorized and issued, and in the event of failure to so set aside the fund dedicated and pledged, any holder or holders of said bonds, or any taxpayer will have the right to enforce the fulfillment of the said obligation by a mandamus or any other procedure necessary to enforce the carrying out of the purposes of said act and the obligations entailed.

Sec. 8. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**MUNICIPALITIES MAY CONSTRUCT, ETC., GAS PIPE LINES.**

**Act 22, E. S. 1918, p. 31.**

**TITLE.**

AN ACT authorizing and empowering municipalities in the State of Louisiana to own, construct and operate gas pipe lines and to combine and co-operate with each other in the ownership, construction and operation of gas pipe lines; authorizing municipalities to make contracts with each other for such purposes; authorizing municipalities to purchase, acquire and operate or expropriate existing gas pipe lines; authorizing municipalities to make contracts with the owners of gas wells for the purchase of gas or to lease or purchase such wells, or to purchase or lease land for the purpose of drilling and owning gas wells; authorizing municipalities to fix the price at which gas shall be sold to consumers; and to prevent the operation thereof at an excessive profit; authorizing municipalities to mortgage gas pipe lines and gas wells, to pledge the revenue derived therefrom and to issue bonds, secured by such mortgages and pledges; and to authorize the special levy of special millage by the majority vote of the property holders or owners in number and amount in the municipality or municipalities taking ad-

vantage of the provisions of this act and restricting the mortgage and pledge of the property, to the property of the municipality or municipalities acquired for the specific purposes provided for herein; providing for a system of allotting and prorating the cost of gas pipe lines and the leasing, purchase or drilling gas wells; providing for the election of commissioners by municipal governing bodies to represent such municipalities in the ownership, construction, operation and management of gas pipe lines and gas wells; providing that such commissioners shall keep a public record of their proceedings and publish the same; providing for the exercise of the right to expropriate property by municipalities or by commissioners representing such municipalities, and repealing all laws in conflict herewith.

**MUNICIPALITY MAY CONSTRUCT, ETC., GAS PIPE LINES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That municipalities in this State are authorized and empowered to own, construct, acquire and operate gas pipe lines, to make contracts with each other, and to combine and co-operate with one another in the ownership, construction, acquirement, operation and management of gas pipe lines, either within the corporate limits of municipalities, or between points or places within the State of Louisiana. That such municipalities that take advantage of the authority granted in this act shall have the right to make contracts with the owners of gas wells for the purpose or use of gas, or the lease or purchase of gas wells, or the purchase or leasing of land for the purpose of drilling and operating gas wells.

**MORTGAGE OF PIPE LINES, GAS WELLS.**

Sec. 2. Be it further enacted, etc., That municipalities that take advantage of the authority granted in this act are authorized and empowered to mortgage gas pipe lines, gas wells and other property and equipment used by such pipe lines or gas wells, and to pledge the revenue derived therefrom, and to issue bonds, secured by mortgage on such pipe lines, gas wells or other property. The ownership of gas pipe lines or gas wells shall be prorated, allotted or distributed among the different municipalities that take advantage of the authority granted in this act in proportion to the amount invested by each municipality. The profit from the operation of gas pipe lines, or the loss sustained thereby, shall be divided in proportion to the amount invested by each municipality. The municipality or municipalities taking advantage of the provisions of this act by a majority vote of the property owners, in both number and amount, and the said municipality or municipalities vote a bond issue and to secure the same a levy of a special millage within the limits of the said municipality or municipalities not to exceed five (5) mills. The property pledged or mortgaged shall be restricted to the property acquired and used by the municipality or municipalities for the specific purposes of this act the pledge or mortgage of the property herein authorized to be pledged or mortgaged shall be made by the three commissioners herein provided for in this act.

**APPOINTMENT OF COMMISSIONERS OR DIRECTORS.**

Sec. 3. Be it further enacted, etc., That when a municipality takes advantage of the authority granted in this act the municipal council or governing body of such municipality shall elect three commissioners to represent such municipality, which commissioners shall act in conjunction and in harmony with the commissioners of other municipalities; that the commissioners shall act in the capacity of a board of directors of the gas pipe line, lines or gas wells; that the commissioners shall elect operating officials of such pipe lines or gas wells and shall have full supervision and control over such pipe lines or gas wells, and shall have authority to remove any officials or employee of such pipe line, lines or gas wells at will.

**COMMISSIONERS, HOW ELECTED—TERMS.**

Sec. 4. Be it further enacted, etc., That the three commissioners to represent such municipalities as provided for in this act, shall be elected for interlapping terms so that the terms of all commissioners shall expire

at different periods; that the first commissioner shall be elected for a term of one year, the second commissioner for a term of two years and the third commissioner for a term of three years, and on the expiration of their terms all succeeding commissioners shall be elected for terms of three years. That the proceedings of the joint commission, as herein provided for, shall be published in the same manner as the proceedings for municipalities, and all general laws governing public contracts of municipalities, as provided by the general laws of the State, shall be applicable to the joint commission provided for herein.

**RIGHT TO PURCHASE EXISTING LINES.**

Sec. 5. Be it further enacted, etc., That when a municipality or municipalities take advantage of the authority granted in this act such municipality or municipalities shall have the right to purchase or acquire existing gas pipe lines, whether located within or without their corporate limits, at a fair and reasonable price. If the municipality or municipalities are unable to reach an agreement with parties at interest concerning the purchase price of existing pipe lines, then such municipality or municipalities shall have the right to resort to expropriation proceedings to secure the control of gas pipe lines, such expropriation proceedings to be conducted in the manner now provided by law.

**RIGHT TO EXPROPRIATE PROPERTY.**

Sec. 6. Be it further enacted, etc., That a municipality or municipalities desirous of owning and operating gas pipe lines under the provisions of this act, or the commissioners representing such municipality or municipalities, shall have the authority to expropriate property in acquiring title to land for right of way, buildings or other purposes necessary in the operation of gas pipe lines. Such expropriation proceedings shall be conducted in the manner now provided by law.

**RIGHT TO FIX PRICE OF GAS.**

Sec. 7. Be it further enacted, etc., That the municipality or municipalities that take advantage of the authority herein provided for, shall have the right to fix the price at which gas shall be sold to consumers, either within or without their corporate limits; provided, that the price so fixed shall be reasonable and that the aggregate amount of revenue derived from such pipe lines or gas wells shall not exceed the cost of operation, with the interest and sinking fund on bonds added, and a sum or sums to be used for improvements and betterments in addition thereto, the purpose of this restriction being to prevent the operation of gas pipe lines and gas wells at an excessive profit.

**REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws or parts of laws in conflict with this act are hereby repealed and that this act shall take effect and be in force from and after its promulgation.

**BUILDING BRIDGES—BORROW MONEY, ETC.**

Act 184 of 1914, p. 349.

**TITLE.**

AN ACT to amend and re-enact Act No. 67 of the Acts of the General Assembly of Louisiana, for the year 1912, which act is entitled: "An Act authorizing certain municipalities or parishes or both in conjunction, to build bridges and to borrow money on certificates of indebtedness to pay for same and to pledge the tolls from such bridges for the payment of such certificates of indebtedness, and declaring such tolls shall cease, save for the maintenance when the completion of the bridge is paid for," by providing further that the certificate of indebtedness issued as provided in this Act shall be valid and subsisting obligations of the city or parish issuing them, and provided further, That the terms of this Act shall apply to those certificates already issued under Act 67 of 1912.

Be it enacted by the General Assembly of the State of Louisiana, that Act No. 67 of the Acts of the General Assembly of Louisiana, for year 1912, be amended and re-enacted so as to read as follows:

#### **TOWNS WHICH MAY BUILD BRIDGES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that any town or city, located on a navigable stream, and any parish bounded by or through which a navigable stream runs, or both such city and parish in conjunction, when the necessary authority has been obtained from Congress, may build bridges across such navigable streams and borrow the money to pay for same, to be evidenced by certificates of indebtedness, bearing not more than five per cent per annum interest to run for a period not exceeding fifteen years, secured and payable as hereinafter provided.

#### **ISSUE OF CERTIFICATES FOR THAT PURPOSE.**

Sec. 2. Be it further enacted, etc., That to secure the payment of said certificates of indebtedness, such city or parish, or both acting conjointly, may fix the rate of tolls to be charged parties passing over such bridge, and pledge such tolls for the payment of said certificates of indebtedness. The rate of toll, when so fixed and pledged, shall not be changed save with the consent of the holder of such certificates. Providing the funds arising from the collection of said tolls shall not be used for any other purpose than maintenance of the bridge, and the cost of its construction, and when the cost of construction of said bridge has been paid, tolls shall no longer be charged save and except for the purpose of maintenance.

#### **PLEDGE OF TOLLS.**

Sec. 3. Be it further enacted, etc., That in addition to the security given by the pledge of tolls as set forth in Section 2 of this act, the certificate of indebtedness as provided in this act shall be valid and subsisting obligations of the city or parish, or both as the case may be.

#### **TO WHAT CASES ACT IS APPLICABLE.**

Sec. 4. Be it further enacted, etc., That the terms of this act shall apply to those cases where certificates of indebtedness have already been issued under the terms of this act.

### **STREET PAVING.**

#### **Act 210 of 1914, p. 400.**

##### **TITLE.**

AN ACT to amend and re-enact Act 241 of 1912, being an Act to amend and re-enact Act 10 of 1896, entitled an Act to empower cities and towns (the city of New Orleans excepted) having a population exceeding ten thousand and all incorporated parish seats, to pave, macadamize or otherwise improve streets and alleys and to levy and collect special taxes and local contributions on real estate abutting the same to defray a part of the cost of such work or improvement.

##### **CITIES WHICH HAVE POWER TO PAVE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of any town or city in this State, (the city of New Orleans excepted), in addition to any existing charter provisions, having a population exceeding ten thousand people, and all incorporated parish seats, shall have the power to pave, gravel, macadamize, resurface, repair or otherwise improve the streets and alleys, or any part thereof, not less than one block, within the corporate limits, and shall have the power to levy and collect special taxes or local assessments on the real estate abutting the street or alley to be improved, for the purpose of defraying a part of the cost of such work, repair, or improvement as hereinafter provided.

**PAYMENT THEREFOR—HOW APPORTIONED.**

Sec. 2. (As amended by Act 25, 1916, p. 56). Be it further enacted, etc., That the owners of real estate so abutting shall pay two-thirds (2-3) of the entire cost of such work or improvement and the municipality shall pay one-third (1-3) out of its resources; provided, that where a railway bed and track other than one municipally owned, occupies a portion of the street or alley, the owner shall pay in the proportion that the space occupied by its roadbed bears to the total area of the street or alley to be improved, and provided further that in the event such railway bed and track is municipally owned, it shall be responsible only for the cost of extra work made necessary by the presence of the track in the street or alley to be improved, and provided further that in the event the space occupied by the railroad track is paved with a different material, the entire extra cost of such paving shall be borne by the owner thereof.

Upon the petition of property owners, representing more than one-half (1-2) in number and amount of assessed valuation of the property abutting upon any given street or alley or portion thereof, not less than one (1) block to be improved, the governing authority of the municipality may order said street, alley or portion thereof, to be paved, graveled, macadamized, resurfaced, repaired, or otherwise improved as set forth in said petition, and the cost thereof shall be apportioned as follows:

A. In the event a railway bed or track other than one municipally owned, occupies a portion of the street or alley, the owner thereof shall pay of the total cost of the work, the proportion that the area occupied by the roadbed bears to the total area of the street or alley to be improved.

B. The municipal corporation shall pay of the total cost, the proportion that the net area of the intersection bears to the total area of the street or alley to be improved. In the event a municipally owned railway be on the street or alley, it shall pay in addition, only for the cost of the extra work made necessary by the presence of the track in the street or alley to be improved.

C. The abutting property owners shall pay for the balance of the cost of the paving or other improvement as herein provided in proportion to the respective frontages of the properties owned by them.

**ORDINANCES—PUBLICATION BIDS, ETC.**

Sec. 3. Be it further enacted, etc., That whenever the governing bodies of municipalities herein described shall resolve to pave, gravel, macadamize, re-surface, repair or otherwise improve the streets or alleys or any part thereof not less than one block, they shall pass an ordinance or resolution calling for bids for the work of which notice shall be published at least twice, the last insertion appearing not less than ten days prior to the date of the opening of such bids, in a newspaper published in said city or parish seat and shall let the contract to the lowest responsible bidder who can give satisfactory security; provided, that the municipality shall have the right to reject any and all bids; and after the contract has been completed the council shall provide for an assessment on all real estate abutting the street or alley, and on railroad tracks as aforesaid or portion thereof to be paved or otherwise improved in such manner as to apportion the contract price on the basis of the respective frontage of the real estate so abutting and on the railroad track in the proportion as set forth in Section 2 hereof. Such assessment shall be levied by ordinance or resolution and the same shall be recorded in the mortgage record of the parish in which the municipality is located not less than ten days nor more than twenty days after the completion and acceptance of the work by the municipality. Instead of letting the contract to the lowest bidder for the paving of a street, alley or portion thereof the municipality may purchase the material and have the work done, in which case the cost of the work when completed, shall be paid for and assessed in the same manner as provided for in Section 2 of this Act.

**ASSESSMENTS AGAINST PROPERTY WHEN DUE.**

Sec. 4. Be it further enacted, etc. That the sum assessed against said real estate and railroad track and roadbed shall be due and collectible within ten days after the completion of the work and its acceptance by the municipality, and if not paid within ten days the municipal authorities shall have the power to proceed by suit against the said owners and said real estate and railroad company and track to collect the delinquent assessment and said municipality and its transferees shall have a special privilege on said property or properties to secure the payment of the sum assessed against it with eight per cent per annum interest thereon from the expiration of said ten days until paid which privilege shall be a first privilege over and above all other claims except taxes, and shall affect third persons from the date of registry of the assessment in the mortgage book of the parish in which said real estate is situated. The governing bodies of municipalities instead of enforcing the said assessment within the time above fixed, may upon the written application by the property owner and payment by him of twenty per cent of the amount due, extend the payment of the balance of said indebtedness to make same payable in four equal annual installments, provided, that, as an evidence of such deferred payments, the property owner so applying and depositing said twenty per cent, shall sign and execute four promissory notes payable to the order of the municipality, each for twenty per cent of the amount due by him, dated ten days after the passage of the ordinance accepting the work, maturing respectively one, two, three and four years from date, or sooner, at the option of the owner of the property, bearing eight per cent yearly interest from date until paid and ten per cent additional as attorney's fees if placed in the hands of an attorney for collection after maturity, which said notes when paraphed by the city clerk or secretary as being secured by assessment covering said work shall carry with them the lien and privilege above provided, and may be transferred by the municipality without recourse to the contractor at their face value in payment pro tanto for the work done by him, carrying with them the lien and privilege above provided.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 5. Be it further enacted, etc., That this act shall take effect from and after its passage and promulgation according to law.

*Note.* Act 187, 1898, p. 432, is on the same subject. The Act of 1914, has no repealing clause, but has so clearly superseded the Acts of 1898, that it is not printed in this edition.

See Act 31, E. S. 1915, printed at p. 1307.

Where the property owners proceeding under this act, take the initiative for the paving of a street, designating the kind of pavement to be laid, and the city authorities let the contract therefor, and the work is done according to specifications, etc., the property holders are liable for the cost although the pavement proves not suitable for the purpose. Neither the property holders, nor their mortgage creditors, have any standing to contest the enforcement of the lien. City of Shreveport vs. Hester, 139 L. 495.

**ISSUE OF BONDS FOR STREET IMPROVEMENTS.****Act 27, E. S. 1915, p. 57.****TITLE.**

AN ACT to provide an additional means whereby cities and towns (the city of New Orleans excepted) having a population exceeding one thousand, and all incorporated parish seats, may pave, gravel, macadamize, resurface, repair, or otherwise improve, streets and alleys, and levy and collect special taxes and local contributions on property abutting thereon to defray the entire cost of such work, repairs or improvement.

**CITIES WHICH MAY ISSUE BONDS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that, in addition to the powers now conferred upon them by existing laws, and upon the written petition of not less than sixty per cent of

the abutting real estate owners in number and assessed valuation on the street or alley, or portion thereof, to be improved, the municipal authorities of any city or town in this state, the city of New Orleans excepted, having a population exceeding one thousand, and all incorporated parish seats, shall have the power to pave, gravel, macadamize, resurface, repair, or otherwise improve, the streets and alleys, or any part thereof, not less than one block, within the corporate limits of said city, and shall have the power to levy and collect special taxes or local assessments on the property abutting the street or alley to be improved for the purpose of defraying the entire cost of said work, repair or improvement, as hereinafter provided.

**COST OF IMPROVEMENTS—HOW PAID.**

Sec. 2. (As amended by Act 26, 1916, p. 58.) Be it further enacted, etc., That the entire cost, including cost of culverts, headers, filling, engineering, labor, material, etc., of said improvement shall be paid by the owners of real estate abutting upon the street or alley, or portion thereof, to be improved, according to the frontage of the property owned by them, provided that, where a railroad bed or track occupies a portion of the street or alley to be improved, the owner thereof shall pay the entire cost of the paving of the space occupied by the roadbed, including the extra work made necessary by the presence of said track, provided further, that in the event such railroad bed and track is owned by the municipality, it shall pay only for the extra work made necessary by the presence of said track in the street.

**ORDINANCE PUBLICATION, ETC.**

Sec. 3. Be it further enacted, etc., That, whenever the governing bodies of municipalities shall resolve to make any improvement authorized by this act, they shall prepare plans and specifications of said work to be placed on file in the office of their clerk or engineer, and shall adopt an ordinance ordering and describing in general terms the contemplated improvement, and authorizing their clerk or secretary to advertise for bids therefor; such advertisements shall be inserted at least twice in some newspaper published in said city, the first insertion to be not less than ten (10) days prior to the date fixed for the reception of the bids, and it shall contain a general description of the contemplated work, and shall designate the hour, date and place for the reception and opening of the bids. The governing body of municipalities shall let the contract to the lowest responsible bidder who can furnish satisfactory security, but shall have the right to reject any and all bids, provided that, instead of letting the contract to the lowest bidder, the municipality may purchase the material and have the work done, in which case the cost of the work when completed shall be assessed and paid for as provided in this act.

**PAYMENT FOR WORK, HOW APPORTIONED.**

Sec. 4. Be it further enacted, etc., that, upon the final and satisfactory completion of the work, the municipal authorities shall accept it by ordinance, and provide for the assessment of all abutting real estate and railroad tracks and roadbeds in the amounts due by the owners thereof, according to the rule of apportionment stipulated in this act. A certified copy of such ordinance containing the said assessment shall within ten days after its passage be filed for record in the office of the recorder of mortgages in the parish in which said assessed property is located, and the same when so filed and recorded shall operate as a lien and privilege in favor of said city or town, or its transferees, against the real estate and railroad tracks therein assessed, which lien and privilege shall prime all other claims except taxes.

**ASSESSMENT—WHEN DUE.**

Sec. 5. Be it further enacted, etc., That the amounts assessed in said ordinance shall be due and exigible immediately upon its passage, and if not paid with ten days thereafter the city or town, or its transferees, shall have the power to proceed by suit against the assessed properties and the

owners thereof, to enforce collection of the amounts of said assessments together with six per cent per annum interest from date of acceptance thereof, and ten per cent of the amount of the judgment as attorney's fees.

#### **DEFERRED PAYMENTS.**

Sec. 6. Be it further enacted, etc., that the governing authorities of the municipality may provide in the ordinance accepting the work and making the assessment that the property owners therein assessed, availing themselves of the privileges within ten days after the passage of the ordinance, may pay in cash twenty per cent of the amount of their indebtedness, and pay the balance thereof in four equal annual installments. As evidence of such deferred payments the property owners shall sign and execute four promissory notes payable to the order of the municipality, each for twenty per cent of the amount due by him, dated ten days after the passage of the ordinance accepting the work, maturing respectively, one, two, three and four years from date, or sooner at the option of the owner, bearing six per cent yearly interest from date and ten per cent attorney's fees if placed in the hands of an attorney for collection after maturity, which notes when paraphed by the city clerk or secretary to identify them with the ordinance levying the assessment, shall carry with them in the possession of any owner the lien and privilege above provided.

#### **TRANSFER OF ASSESSMENT NOTES.**

Sec. 7. Be it further enacted, etc., that the assessments and the notes executed by the property owners pursuant to the provisions of this act may be transferred by the city without recourse to the contractor at their face value, and such contractor, or any transferees thereof, shall enjoy the lien and privilege and all other rights provided in this act accruing to the municipality ordering said work.

#### **PROVISIONS OF ACT ARE ADDITIONAL.**

Sec. 8. Be it further enacted, etc., That this act shall provide an additional means for the improvement of streets and alleys, and parts thereof, and shall not alter or modify existing laws providing for other means of making such improvements and particularly Section 34 of Act 136 of 1898 as reenacted by Act 131 of 1904, and Act 210 of 1914.

#### **WHEN ACT GOES INTO EFFECT.**

Sec. 9. Be it further enacted, etc., that this act shall take effect from and after its passage and promulgation according to law.

### **TO REGULATE WIDTH OF STREETS AND ALLEYS.**

**Act 81 of 1914, p. 197.**

#### **TITLE.**

**AN ACT** to authorize cities and towns of this state of less than 75,000 and greater than 25,000 inhabitants to curtail the width of streets or alleys when considered advisable and to sell any part of a street not needed, or to exchange same for other ground to be used for street purposes as an equivalent for the strip of street so exchanged; provided, that at an election held, the majority of the property tax payers at such election in said town or city shall consent thereto.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the cities and towns of this state having a population less than 75,000 and more than 25,000 persons, shall have authority and are hereby granted the authority to curtail the width of any street or alley when considered advisable and to sell the part not needed or required; or to exchange same for other ground to be used for street purposes as an equivalent for the strip of street so exchanged; provided, that prior to said exchange a majority of the property tax payers in said city or town voting at an election to be called for such purpose, shall approve said proposed sale or exchange.

**TEARING UP OF STREETS.****Act 135 of 1894, p. 170.****TITLE.**

**AN ACT** to prevent the tearing up of public streets, except under certain conditions and to promote the public health; also to provide penalties for its violation.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person, firm, contractor, or corporation to tear up any street in any city for the purpose of laying tracks, sewer pipes, gas or water pipes, or other work of like character which might necessitate digging and overturning the earth of said streets, from May 1st to September 1st in each year, except under the following conditions, to-wit:

Provided that the contractor, builder or persons carrying on such work shall not tear up, interrupt or obstruct more than three blocks of any mile of street at one and the same time, provided that permission be first obtained from State Board of Health to conduct such operations during such season, under its supervision.

Sec. 2. Be it further enacted, etc., that any contractor, foreman of contractor, superintendent or other persons who shall violate this law shall be forthwith arrested, and on conviction shall be fined not less than one hundred dollars (\$100.00) or imprisonment for not less than sixty days at the discretion of the court for each offense.

**MAINTENANCE OF STREETS.****Act 17 of 1910, p. 28.****TITLE.**

**AN ACT** to provide additional methods for the maintenance of streets in villages and towns.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of incorporated villages and towns are hereby empowered to require all able-bodied male persons, between the ages of 18 and 55 years, residing within the corporate limits of such village or town, to work the streets, under the supervision of the street commissioner, when summoned by him so to do, not exceeding eight days in any one year; provided that any person may relieve himself from such compulsory street duty by paying a street tax in lieu thereof, the amount of which shall be fixed by the ordinance requiring the performance of such street duty and shall not exceed four dollars (\$4) per annum, payable as the municipal authorities may elect; and all sums paid into the treasury of any municipality from this source shall be expended upon the public streets of such municipality; the municipal authorities may provide for the punishment by fine or imprisonment, or both, of all persons who shall fail or refuse to perform such street duty or pay such street tax in lieu thereof.

Sec. 2. Be it further enacted, etc., That all laws in conflict herewith are repealed; but this act shall not affect any other method now provided by law for working streets in municipalities.

**REVOCATION OF DEDICATION OF ABANDONED  
STREETS, ETC.****Act 151 of 1910, p. 231.****TITLE.**

**AN ACT** authorizing police juries and municipal corporation to work and set aside dedications of roads, streets and alley-ways, when same has been abandoned, or no longer needed for public use, (Parish of Orleans excepted).

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of this State and municipal corporations, shall have full power and authority, in their discretion, to revoke and set aside the dedication of all roads, streets and alleyways heretofore laid out and dedicated to public use, within their respective limits when such roads, streets and alleyways have been abandoned, or are no longer needed for public purposes, (Parish of Orleans excepted).

**Sec. 2.** Be it further enacted, etc., That upon such revocation, the ownership of the soil embraced in such roads, streets and alleyways up to the center line thereof shall revert to the ten present owners of the land contiguous thereto, (Parish of Orleans excepted).

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with this act are hereby repealed; provided that nothing in this act shall be construed as repealing any of the provisions of special statutes or charters of incorporated cities or towns granting the right to close or alter roads or streets.

### **METHOD OF DETERMINING AMOUNT OF DAMAGES RESULTING FROM STREET IMPROVEMENTS.**

**Act 165 of 1916, p. 393.**

#### **TITLE**

AN ACT to provide the method of determining the amount of damages to property resulting from street improvements and to require the benefits to such property to be considered in assessing damages.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, that in suits against municipal corporations for damages resulting from the change or alteration of the grade of streets or the disturbance of the natural contour of the ground, the damages to be paid to the owners of abutting property shall be determined after deduction has been made of all special benefits and the enhancement in value of the particular property so damaged by the performance of such public work.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith are repealed.

### **PRESCRIPTION FOR RECOVERY OF DAMAGES.**

**Act 26 of 1908, p. 29.**

#### **TITLE.**

AN ACT fixing the period of prescription of one year for action for the recovery of damages done to persons or property by reason of the grading of streets or alleys by municipalities.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That action for the recovery of damages done to person or property by reason of the grading of streets or alleys or other public ways by any municipality of this state shall be instituted within the period of one year from and after the time when such damage was done.

**Sec. 2.** Be it further enacted, etc., That prescription shall run against all such actions brought after the period of one year shall have run as provided in section 1 of this act, and no recovery of damages can be had after the lapse of said period.

## **EXCHANGE OF PROPERTY FOR CONSTRUCTION OF STREETS.**

**Act 83 of 1916, p. 203.**

### **TITLE.**

**AN ACT** allowing the cities, towns and villages of the state to make exchanges of property including streets, with property owners, by which new streets may be laid out and dedicated.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, that the municipal councils or other governing bodies of cities, towns and villages, may by proper ordinance exchange property including streets with property owners so that new streets may be laid out and dedicated whenever, in the discretion of any council, or other governing body, it is to the best interest of the people of the city that new streets should be laid out and dedicated and property acquired therefor and other streets or parts of streets given in exchange and to become private property.

**Sec. 2.** Be it further enacted, etc., That all contracts of exchange made under the provisions of this act shall be in notarial form and shall be followed by an ordinance or dedication of new street or streets with reference to a plan or plans of record in the office of the City Engineer, or similar official of the city or cities making exchanges as herein authorized.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with this act be and the same are hereby repealed.

## **IMPROVEMENT OF SIDEWALKS, ETC.**

**Act 147 of 1902, p. 261.**

### **TITLE.**

**AN ACT** empowering cities and towns (the city of New Orleans and city of Shreveport excepted) having a population exceeding twenty-five hundred, all parish sites, and less than fifty thousand to pave, gravel, macadamize, or otherwise improve sidewalks and curbings, and to levy and collect special taxes and local contributions on real estate abutting the same, to defray the cost of such work or improvement, and repealing such provisions of town or city charters, or any other laws, as are inconsistent herewith.

### **AUTHORITY TO PAVE—LEVY SPECIAL TAXES.**

**Section 1.** (As amended by Act 49 of 1912, p. 58.) Be it further enacted, etc., That the municipal authorities of any town or city in this state (the city of New Orleans and the city of Shreveport excepted) having a population of one thousand or more, all parish sites and less than fifty thousand shall have the power to pave, gravel, plank, macadamize or otherwise improve the sidewalks and curbings or any part thereof, within the corporate limits, and shall have the power to levy and collect special taxes or local assessments on the real estate abutting the sidewalk or curbing to be improved for the purpose of defraying the costs of such work or improvement, as hereinafter provided.

### **ORDINANCE—PUBLICATION BIDS, ETC.**

**Sec. 2.** Be it further enacted, etc., That whenever the municipal council of cities or towns herein described shall resolve to pave or improve any portion of the sidewalks or curbing in the municipality, it shall pass an ordinance calling for bids for the work, of which ten (10) days' notice shall be given in newspapers published in said city or town, and shall let the contract to the lowest responsible bidder, who can give satisfactory security; and, after the contract has been awarded, the council shall provide by ordinance for an assessment of all the real estate abutting the sidewalk, curbing or portion thereof to be paved or improved; provided, that in case no satisfactory bid is received, then, and in that event, the municipal authorities of said cities and towns shall have the power to pave, gravel, macadamize or otherwise improve the said sidewalks, curbing or portions thereof,

under the direction and supervision of the proper officers, and the cost thereof shall be assessed against the owners of the property abutting on the said sidewalks or portions thereof.

#### **WHO PAYS COST OF WORK.**

Sec. 3. Be it further enacted, etc., That the owners of real estate so abutting shall pay the entire cost of such work, on the basis of the respective frontage of the property on the sidewalks or curbing to be paved or improved.

#### **ASSESSMENT, WHEN DUE.**

Sec. 4. Be it further enacted, etc., That the sum assessed against the real estate shall be due and collected within ten (10) days after the completion of the work and its acceptance by the councils of said cities and towns, and, if not paid within ten (10) days, the municipal authorities shall have the power to proceed by suit against the said owners and said real estate to collect the delinquent assessment, and the said municipality shall have a special privilege on said property or properties to secure the payment of the sum assessed against it, with six per cent (6%) interest per annum thereon from the expiration of the said ten (10) days, until paid, which lien shall be the first privilege over all other claims except taxes, said privilege shall affect third persons from the date of the registry of the assessment in the mortgage book of the parish in which the real estate is situated, provided, that the town or city council instead of enforcing the said assessment as above fixed upon the payment in cash by the property owner of twenty per cent (20%) of the amount due by said property owner, may in their discretion, authorize the mayor to sign and issue certificates showing the amounts respectively due by the persons and properties on said sidewalks or curbing so paved or improved, which shall be payable in one, two, three, four and five years (or sooner, at the option of the owner of the property), with six per cent (6%) interest per annum; interest payable annually; which said certificates (when a copy of same is recorded with the assessment, as aforesaid) duly paraphed as being recorded by the Recorder of Mortgages, shall be secured by the first privilege on the property prior to all other charges, except taxes, and may be transferred, carrying the lien and privilege of the transferee at their face value to the contractor in payment of the work and paving done on sidewalk, curbing, or portions thereof; provided, that where the work is done by the city or town, as provided in Section 2, the said certificate may be transferred to other persons, and shall enjoy the lien and privilege aforesaid.

#### **REPEALING CLAUSE—LIMITATION.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed; provided, however, that nothing contained in this act shall be construed or taken to repeal or affect any contrary or conflicting provisions in any existing charter of any city or town.

**Note.** The parish is liable for the cost of a pavement around the courthouse square in the parish seat. *Town of Franklinton vs. Police Jury*, 126 L. 2.

The act is not in conflict with Const. Arts. 2 and 232 nor with the fourteenth amendment of the Const. of the United States. *Fourchy vs. Town of Franklin*, 126 L. 151.

The contract must be let to the lowest bidder, and where the town council awards the contract to one of the bidders, ignoring two lower bids, the award will be set aside. The necessity for a local assessment for street paving, or whether it will confer any special benefit on the abutting property, are not judicial questions; unless there is a plain abuse of power; courts will not interfere with the discretion of municipal authority. *Fourchy vs. Town of Franklin*, 126 L. 151. Rule of apportionment. Where the work is performed and accepted by the municipal authorities, the acceptance is conclusive that the work was performed according to contract, unless there was fraud. Right of Appeal, Jurisdiction of Supreme Court. *Town of Minden vs. Glass*, 132 L. 827; *City of Crowley vs. Police Jury*, 138 L. 499. There is no personal liability on an abutting owner greater than the value of the abutting property. The expense of a driveway constructed with the acquiescence of the property owner is properly charged to him. Acceptance by city, etc. *Town of De Ridder vs. Lewis*, 139 L. 903. A local assessment for street improvements is made without regard to the assent or dissent of the property owners, it is a "tax" and the Supreme Court has jurisdiction, where the answer impeaches the validity of the ordinance. *Town of Minden vs. Stewart*, 142 L. 467.

**MAY GRANT RAILROADS RIGHT TO USE STREETS, ETC.****Act 79 of 1896, p. 113.****TITLE.**

**AN ACT** to authorize cities and towns of this state of less than 25,000 inhabitants, to grant to railroads and other corporations subject to conditions, the right to occupy and use the streets and alleys therein; provided that an election held, the majority of the property taxpayers voting at such election in said town or city shall consent thereto.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the cities and towns of this state (having a population of less than 25,000 persons) shall have authority to grant to railroads and other corporations the right to use and occupy the streets and alleys therein and to obstruct the same, or part thereof, with buildings necessary to and used by said corporations; provided that prior to said grant a majority of the property taxpayers in said city or town voting at an election to be called for such purpose, shall approve said proposed grant; provided further that in making said grant, the said cities and towns through their councils shall impose such conditions and make such charges as they may deem fit.

**Note.** The grant by a municipality to a railroad company to use a street, does not relieve the railroad company from the payment of such damages as all owners of property abutting on the street may have suffered through diminution in the value of his property. Lewis vs. Colorado So. N. O. & P. R. Co., 122 L. 572, but exemplary damages will not be allowed. Fontenot vs. Colorado S. N. O. & P. Co., 122 L. 779.

A town council is without power to make an irrevocable grant of the use or occupancy of the streets of the town for a railroad track, without the approval of the property tax pays voting at an election held for that purpose. Louisiana W. R. Co. vs. City of Crowley, 142 L. 649. The franchise could be granted without submitting the question to the taxpayers. Lewis vs. Colorado, etc., R. R. Co., 122 L. 572.

**Act 76 of 1914, p. 194.****TITLE.**

**AN ACT** to authorize cities and towns of this State, of less than 75,000 inhabitants to grant to railroads and other corporations subject to conditions, the right to occupy and use the streets and alleys therein; provided that at an election held, the majority of the property taxpayers voting at such election in said town or city shall consent thereto.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, that the cities and towns of this State (having a population of less than 75,000 persons) shall have authority to grant to railroads and other corporations the right to use and occupy the streets and alleys therein and to obstruct same, or part thereof, with buildings necessary to and used by said corporations; provided that prior to said grant a majority of the property tax payers in said city or town voting at an election to be called, for such purpose shall approve said proposed grant; provided further that in making said grant, the said cities and towns through their councils shall impose such conditions and make such charges as they may deem fit.

**Note.** This act does not contain a repealing clause and does not repeal Sec. 1, par. 7, Act 111, 1912. Authority to grant the use of the streets to erect electric light poles, etc., may be given without submitting the issue to a vote of the property holders. Mandeville T. & L. Co. vs. Town.

**RAILWAY, ETC., COMPANIES MUST KEEP STREETS IN ORDER, ETC.****Act 193 of 1912, p. 381.****TITLE.**

**AN ACT** to require all railway and street railway companies using the streets of a municipality, to keep in good condition and suitable for vehicular traffic that portion of the street covered by such track, and when such street is paved, to keep such paving in repair and renew same when necessary.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of all railway and street railway companies, whose tracks are laid on or across any street of a municipality, to keep the space in such street covered by its tracks in good condition, suitable for vehicular traffic; and when said street is paved, to keep such paving in good repair and renew the same when necessary.

Note. Mandamus will lie to compel a railroad company to make the necessary repairs to the road running through the streets of a city or town, so as to keep the same free for the use of the public, and clear of all obstruction. State ex rel Mayor, etc., vs. Louisiana & Wn. R. Co., 136 L. 14.

## GRANT FRANCHISES FOR CONSTRUCTION, ETC., OF RAILROADS.

**Act 194 of 1916, p. 434.**

### **TITLE.**

**AN ACT** to authorize the governing authorities of cities, towns and villages with a population not exceeding 10,000 to grant franchises for the construction and operation of railroads and appurtenances, and to repeal all general and special laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the governing authorities of all cities, towns and villages having a population of not exceeding 10,000, incorporated under the special or general laws of this State, shall be authorized and empowered to grant franchises to any person, firm or corporation for the construction and operation of railroads and their appurtenances over the streets, alleys and other public places in said cities, towns and villages, respectively, for a term not to exceed fifty (50) years from the date of such grant and under such terms, conditions and stipulations as may or shall be prescribed by said governing authorities; provided the provisions of this Act shall not apply to street car lines or street railroads; and providing further, that if any existing franchise shall be extended by said governing authorities in advance of one year before the expiration of said existing franchise, the whole term of the franchise shall not exceed fifty years from the date of the original franchise.

**Sec. 2.** Be it further enacted, etc., That all general and special laws or parts thereof in conflict with the provisions of this Act, be and the same are hereby repealed.

## SALE, LEASE OR GRANT OF FRANCHISES.

**Act 106 of 1902, p. 160.**

### **TITLE.**

**AN ACT** to provide that cities of over fifty thousand inhabitants, when having for sale, lease or grant any franchise, lease or privilege pertaining to the comfort or convenience of the residents thereof, shall when there are more than one of the same kind of franchise, lease or grant to be disposed of, sell, lease or grant such franchise, lease or privilege separately and not collectively.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all cities of over fifty thousand inhabitants when having for sale or lease any franchise, lease or privilege pertaining to the comfort or convenience of the residents thereof, and when there are more than one of the same kind of franchise, lease or privilege to be disposed of by sale, lease, grant or otherwise, shall sell, lease, or grant such franchise, or lease separately and not collectively.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**TO OPERATE AND CONSTRUCT ELECTRIC STREET RAILWAYS.****Act 89 of 1904, p. 208.****TITLE.**

AN ACT granting to municipalities of more than five thousand inhabitants, the power to construct, own and operate electric street railways within and without their limits.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all municipalities of the State of Louisiana, of more than five thousand inhabitants, shall have the power to construct, own and operate street railways within and without their corporate limits.

Sec. 2. Be it further enacted, etc., That this Act shall take effect from and after its passage.

**EXPROPRIATION OF ELECTRIC LIGHT, GAS, ETC., PLANTS.****Act 111 of 1900, p. 174.****TITLE.**

AN ACT to permit municipal corporations throughout the State to expropriate gas, electric light and waterworks plants belonging to private owners and to prescribe the manner of expropriating same.

**RIGHT TO EXPROPRIATE GAS, ETC., PLANTS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any municipal corporation of this state is hereby granted the right to expropriate any electric light, gas or waterworks plant or property belonging to any person, firm, or corporation, whenever deemed necessary for the public interest, by the mayor and council of the municipality, and when the municipal council can not agree with the owner or owners thereof, for its purchase, it shall be lawful for the municipal corporation through its proper officers, to apply, by petition, to the Judge of the District Court in which such gas, electric light or waterworks plant or property may be situated, describing the property necessary for the municipal purpose, with a detailed statement of the buildings, machinery, appurtenances, fixtures, improvements, mains, pipes, sewers, wires, lights, poles and property of every kind connected therewith, with a prayer that the gas, electric light or waterworks plant or property with its buildings and land, whereon the same is situated, machinery, fixtures, appurtenances, mains, pipes, sewers, wires, lights, poles, franchises, established business etc., as described in said statement, may be adjudged to the said municipality, upon the payment to the owner or owners of the value of said property and all such damages as he, it, or they may sustain in consequence of the expropriation of said property by the municipality provided that in all cases where the same individual or corporation is the owner of both gas, electric light and waterworks plants, or of more than one of said plants, then it shall not be lawful for the municipal corporation to expropriate anyone of such plants, without expropriating all of such plants owned by the same corporation or individual.

All claims for damages to the owner caused by the expropriation of any property as aforesaid, shall be barred by one year's prescription, which shall commence to run from the date at which the property was actually taken possession of by the political corporation and used by it.

**PROCEEDINGS TO EXPROPRIATE—APPOINTMENT OF COMMISSIONERS.**

Sec. 2. Be it further enacted, etc., That on presentation of such petition to the judge, it shall be his duty to endorse thereon an order directing the clerk of court to give a notice to the owner according to law and ap-

point six commissioners, property owners and residents of the parish, whose duty it shall be to carefully examine the property sought to be expropriated, to make a detailed estimate of the value of the same, said statement to show the valuation separately of the buildings, the land whereon same is located, machinery, appurtenances, mains, pipes, sewers, wires, lights, poles, etc. The clerk shall thereupon issue a copy of the petition and order to the sheriff, who shall make service and return thereof, as in ordinary cases.

#### OATH OF COMMISSIONERS.

Sec. 3. Be it further enacted, etc., That the commissioners shall, before performing their duties, take an oath to faithfully and impartially discharge the same, to the best of their ability, and shall return into court the report of their investigation and estimate of valuation, within fifteen days after the notification to them by the clerk of their appointment; the clerk shall then deliver to the sheriff a notice to both parties directing them to show cause why the report of the commissioners should not be approved by the court, within ten days after service of said notice and the sheriff shall serve the same upon all parties to the proceedings as in ordinary cases.

#### OBJECTIONS TO REPORT.

Sec. 4. Be it further enacted, etc., That in the event either party shall object to the report of the commissioners, the municipality or the owner shall file with the clerk a petition of opposition setting forth the objections thereto and the reasons therefor, which opposition shall be tried and decided after hearing the evidence of both parties, as in ordinary cases.

#### APPEALS.

Sec. 5. Be it further enacted, etc., That the parties shall have the right of appeal to the Supreme Court or Court of Appeals, according to the amount involved and no appeal from the judgment of the lower court made by either party shall suspend the execution thereof; but the payment of the amount by the municipal corporation to the owner or the deposit thereof in the hands of the sheriff subject to the owner's order, shall entitle the municipality to the right, title, and estate of the owner in and to the property described in the petition and the detailed statement of the buildings, machinery, fixtures, sewers, mains, pipes, wires, poles, etc., in the same manner as a voluntary conveyance would do. But in the event of any change being made by the final decree in the decision of the cause, the municipality shall be bound to pay the additional assessment, or be entitled to recover back the surplus paid as the case may be.

#### TENDER.

Sec. 6. Be it further enacted, etc., That if a tender be made by any municipality of the true value of the gas, electric light or waterworks plant to the owner thereof, before proceeding to a forced expropriation, the costs of such proceeding shall be paid by the owner.

#### INJUNCTIONS—PREFERENCE FOR TRIALS.

Sec. 7. Be it further enacted, etc., That whenever proceedings for the expropriation of any gas, electric light, or waterworks plant for the use and ownership of a municipality shall be stayed by injunction in any court of this state, the suit shall have preference in the District Court over all other cases except those in which the state is a party, and shall be fixed for trial on motion of either party as soon as issue shall be joined, and in case any appeal shall be taken from any judgment or order in such suit, the said appeal shall be made returnable within fifteen days, and shall be taken up and tried in the Supreme Court by preference over all cases except those in which, the state being a party, preference is already given by law.

**DISPOSITION OF MORTGAGES ON EXPROPRIATED PROPERTY.**

Sec. 8. Be it further enacted, etc., That whenever any gas, electric light or waterworks plant which is encumbered with mortgages, or privileges of any kind, whether conventional, legal or judicial, shall be expropriated by any municipality, the same shall pass to such political corporation, free and clear of all encumbrances, but the amount decreed to be paid therefor shall be paid by such corporation into the court by which the expropriation shall be made, within six months from the date of final judgment therein, and shall be a fund to be distributed to the mortgage and privileged creditors according to their priority. In the event such municipal corporation shall fail to pay the amount fixed by the judgment of expropriation within six months after the rendition of such judgment then the same shall become null and void and the municipality shall be liable for all damages suffered by reason of its failure to comply with the terms of such expropriation judgment.

**VALIDITY OF JUDGMENT AGAINST MINORS, ETC.**

Sec. 9. Be it further enacted, etc., That all judgments directing the expropriation of gas, electric light or waterworks plants, to political corporations, shall be valid against all persons, married women, minors or persons interdicted.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That this act shall take effect from and after its passage.

Note. Tax payers as such have no standing in court to contest an ordinance of the city council on the ground that it violates the vested right of a corporation in which they have no legal interest, nor have they any standing as property owners unless and until danger of injury to their own property becomes actual and real. Nothing in Act 111, 1900, affects the legal situation. *Morris vs. Municipal Gas Co.*, 121 L. 1016.

**ELECTRIC STREET AND INTERURBAN RAILWAYS—  
LIGHT AND POWER PLANTS, ETC.**

Act 128 of 1918, p. 213.

**TITLE.**

AN ACT authorizing and empowering municipalities in the State of Louisiana to own, construct, lease and operate electric street railways, interurban electric railways, electric lighting and power plants and hydro-electric power plants, and authorizing municipalities in this State to co-operate and combine and make contracts with each other and with municipalities in other States in the ownership, construction, leasing and operation of electric street railways, electric interurban railways and electric lighting and power plants and hydro-electric power plants; authorizing municipalities to purchase, acquire or lease existing interurban railways and street railway systems; authorizing municipalities to mortgage electric street railways and interurban railways and power plants and to pledge the revenues derived therefrom, and to issue bonds, secured by such mortgage and pledges; providing for a system of allotting and prorating the cost of electric interurban railways; providing for the election of commissioners by municipal governing bodies to represent such municipalities in the ownership, construction, leasing and management of interurban railways; providing that such commissioners shall keep a public record of their proceedings and publish the same, and providing for the exercise of the right to expropriate property by municipalities or by commissioners representing such municipalities.

**AUTHORITY TO OWN, CONSTRUCT, LEASE AND OPERATE STREET  
RAILWAYS, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That municipalities in this State are hereby authorized and empowered to own, construct, acquire, lease and operate electric street rail-

ways and electric lighting and power plants, and hydro-electric power plants, and to co-operate, combine and make contracts with each other and with municipalities in other States in the ownership, construction, acquirement, leasing, operation and maintenance of electric interurban railways between points in this State, or between points in this State and other States.

#### **RIGHT TO MORTGAGE PROPERTY AND EQUIPMENT.**

Sec. 2. Be it further enacted, etc., That municipalities that take advantage of the authority granted in this act are authorized and empowered to mortgage street railways, interurban railways, electric lighting and power plants and all other property and equipment used by such railways, and to pledge the revenues derived therefrom, and to issue bonds, secured by mortgage on such street railways, interurban railways and electric power plants and hydro-electric power plants. The bonds first issued to begin the construction, purchase, lease or operation of such electric railways and power plants may be issued by any municipality taking advantage of the authority granted in this act in an amount not exceeding ten per cent of its assessed valuation, and shall be secured by all of the property within the municipality, the same as other bonds. The ownership of interurban electric railways, electric light and power plants, hydro-electric plants, etc., shall be prorated, allotted or distributed among the different municipalities that take advantage of the authority granted in this act in proportion to the amount invested by each municipality. The profit from the operation of electric interurban railways, or the loss sustained thereby, shall be divided in proportion to the amount invested by such municipality.

#### **COMMISSIONERS TO REPRESENT MUNICIPALITY.**

Sec. 3. Be it further enacted, etc., That when a municipality takes advantage of the authority granted in this act the municipal council or governing body of such municipality shall elect three commissioners to represent such municipality, which commissioners shall act in conjunction and in harmony with the commissioners of other municipalities; that the commissioners shall act in the capacity of a board of directors of the electric street railway and interurban railway system or systems; that the commissioners shall elect operating officials of such street railways and interurban railways and shall have full supervision and control over such street railways and interurban railways, and shall have authority to remove any official or employee of such railway system or systems at will.

#### **TERMS OF OFFICE OF COMMISSIONERS.**

Sec. 4. Be it further enacted, etc., That the three commissioners to represent such municipalities, as provided for in this act, shall be elected for interlapping terms so that the terms of all commissioners shall expire at different periods; that the first commissioner shall be elected for a term of one year, the second commissioner for a term of two years, and the third commissioner for a term of three years, and on the expiration of their terms all succeeding commissioners shall be elected for terms of three years. That the proceedings of the joint commission, as herein provided for, shall be published in the same manner as the proceedings for municipalities, and all general laws governing public contracts of municipalities, as provided by the general laws of the State, shall be applicable to the joint commission provided for herein.

#### **RIGHT TO PURCHASE AT REASONABLE PRICE.**

Sec. 5. Be it further enacted, etc., That when a municipality takes advantage of the authority granted in this act it shall have the right to purchase, lease or acquire other or existing electric street railways and interurban railways at a fair and reasonable price.

#### **RIGHT OF EXPROPRIATION.**

Sec. 6. Be it further enacted, etc., That municipalities operating street railways or interurban railways under the provisions of this act shall have

authority to expropriate property in acquiring title to land for right of way, stations, sidings, power plants and other purposes necessary in the operation of street railways and interurban railways. Such expropriation proceedings shall be conducted in the manner now provided by law.

**REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict with this act are hereby repealed, and that this act shall take effect and be in force from and after its promulgation.

**SPRINKLING AND SWEEPING DISTRICTS.**

Act 161 of 1900, p. 244.

**TITLE.**

**AN ACT** creating sprinkling and sweeping districts in cities having a population exceeding ten thousand (10,000) inhabitants, and not exceeding fifty thousand (50,000) inhabitants, and providing for imposing part of the cost on abutting estates.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That each street or part thereof, not less than a block, now paved, or that may hereafter be paved with brick, asphalt or other material (when so paved), within the cities in the State having a population of more than ten thousand (10,000) and not exceeding fifty thousand (50,000) be and are hereby created sprinkling and sweeping districts.

Sec. 2. Be it further enacted, etc., That when the City Councils of aforesaid cities shall resolve that any such block or street shall be swept and sprinkled, the said council, provided a majority in the sprinkling districts petition for same, is hereby empowered to advertise for bids and let out said work to the lowest bidder (with power to reject any and all bids) who shall give security to amount named by Council for the performance of the work. After making the contract the Council shall have the right and authority to assess one-fourth ( $\frac{1}{4}$ ) of the cost thereof on the occupants of the abutting property and one-fourth ( $\frac{1}{4}$ ) on abutting property; the amount assessed against the abutting property to be assessed in the proportion to the foot frontage of each piece of realty on the street or block. The assessments so made shall be due and payable at times fixed by the Council and shall be recorded in Recorder's office of the parish wherein the city is situated, and one-fourth ( $\frac{1}{4}$ ) shall operate as a first lien and privilege on said properties abutting, next after State, parish and municipal taxes and paving assessments. Provided that no part of the cost of sprinkling street car tracks shall be assessed to abutting property, or the city or the occupants. The cost of sprinkling the street car tracks being chargeable to the street car companies under proper city ordinances.

**CREATION OF SEWERAGE DISTRICTS.**

Act 285 of 1908, p. 424.

**TITLE.**

**AN ACT** to authorize and employ municipal corporation, the City of New Orleans excepted, to create in pursuance of Art. 281 of the Constitution, one or more sewerage districts within their respective limits; to enlarge such districts after they are created and to consolidate them; to confer certain powers upon such sewerage districts; to provide a board of government for the same and to repeal all laws or parts of laws in conflict herewith.

**AUTHORITY GIVEN.**

Section. 1. Be it enacted by the General Assembly of the State of Louisiana, That municipal corporations, the City of New Orleans excepted, are hereby authorized and empowered, in pursuance of Art. 281 of the Con-

stitution of the State of Louisiana, to create one or more sewerage districts within their respective limits; to enlarge the same after such districts are created, and to consolidate them.

#### **POWERS OF SEWERAGE DISTRICTS.**

Sec. 2. Be it further enacted, etc., That such sewerage districts when created shall have and possess the following powers, to-wit:

(1) To contract, sue and be sued in their corporate names; to own and possess a seal and to change the same at will.

(2) To contract for, to install, to maintain and operate a sewerage system within their respective limits and to exercise the power of expropriating, both within and without their limits, for the purpose of laying and installing and operating said plant, and all appurtenances necessary thereto.

(3) To incur indebtedness and to issue and sell negotiable bonds for the purpose of acquiring or installing such systems or plants agreeably to and in pursuance of Art. 281 of the Constitution of the State of Louisiana and the general laws of the State appertaining thereto.

(4) To maintain and operate such system, and to use therefor such funds as may accrue from the tax voted in excess of the amount necessary to retire the bonds and the interest thereon; and to receive and use for said purpose such money as may be from time to time appropriated by the respective municipalities, creating such districts, under their powers to protect the public health.

(5) To do all such things and to enact all such rules and regulations as may be necessary or advantageous to the installing, maintenance, operation and use of said sewerage systems or plants.

#### **POWERS TO BE EXERCISED BY BOARD OF COMMISSIONERS.**

Sec. 3. Be it further enacted, etc., That the powers herein conferred upon sewerage districts shall be exercised and performed by a board of commissioners, to be known as the Board of Sewerage Commissioners, to consist of five members to be selected by vote of the property taxpayers authorized to vote under the constitution and laws of this State at elections in such districts for the issuance of negotiable bonds. Provided, that no member of the City Council or officer of any municipality shall be eligible to membership on said sewerage commission. The first election for such commissioners shall be held at such time as may be fixed by the municipal authorities creating the district. Said Commissioners shall hold office for four years and until their successors shall have been elected and qualified, with the exception of the first Board, which shall hold office until the first Congressional election after it assumes the discharge of the functions entrusted to it. After the first election said Board shall order and conduct all future elections and canvass and promulgate the returns in accordance with the general election laws in force at the time such election is held, in so far as the same may be applicable.

#### **ELECTION OF OFFICERS OF BOARD.**

Sec. 4. Be it further enacted, etc., That said Board shall, at its first meeting, elect from among its members a president who shall exercise and perform all of the duties and powers usually conferred upon presidents of similar boards, and such reasonable powers as may be conferred upon him by said Board. Said Board shall also, at said meeting, elect a vice-president, secretary and treasurer, and may in its discretion elect the same person to the office of secretary and treasurer. Said Board shall, by ordinance, define the powers and duties of the secretary and treasurer. The treasurer shall give a good and solvent bond payable to the president of said district, in such sum as said Board may fix, conditioned for the faithful performance of his duties.

The Board in its discretion may select persons not members of said Board to fill said offices of secretary and treasurer. The tax collector of the municipality creating such sewerage district or districts shall be ex-

officio tax collector of the same and shall collect the taxes due said district in the same manner as are now or may from time to time be provided for the collection of other special taxes. The tax collector of said district shall be ex-officio assessor for the same and shall prepare the tax roll of the same by preparing and copying it from the assessments and rolls used by the State for the collection of taxes on the property within said district.

**INCURRING INDEBTEDNESS.**

Sec. 5. Be it further enacted, etc., That any election within such districts for the incurring of indebtedness and the issuance of negotiable bonds, as above provided, shall be called by said Board and such election shall be held under the general election laws of the State in force at the time for the incurring of indebtedness and the issuance of negotiable bonds by municipalities, and the said Board shall receive the returns of such election and upon receiving such returns shall do and perform in relation to the same all duties and functions exercised in such instances by municipal councils in such elections.

**VOTE OF TAX.**

Sec. 6. Be it further enacted, etc., That when an election has been called for a Board of Sewerage Commissioners, and said commissioners have been duly elected, and subsequent thereto, an election is had for the voting of a tax and the issuance of bonds, as herein provided for, and the result of said election shows that the bond issue has failed to carry, the Board of Sewerage Commissioners shall cease to exist.

**.COMMISSIONERS TO SERVE WITHOUT REMUNERATION.**

Sec. 7. Be it further enacted, etc., That members of boards of sewerage commissioners, elected by the property taxpayers within the limits of the sewerage district; shall serve without remuneration. The city attorney of such municipality shall be ex-officio attorney for the Board of Sewerage Commissioners, and shall serve as such without remuneration.

**REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**MAY INSTALL SEWERAGE SYSTEMS.**

**Act 246 of 1916, p. 520.**

**TITLE.**

AN ACT to authorize the governing authorities of every chartered or incorporated village, town or city having a population of not more than ten thousand, of the State of Louisiana, whether operating under a special charter or under the general law or laws, to provide for constructing, installing and maintaining a sewerage system or systems covering or embracing the entire respective limits thereof, or any district created within their respective limits, and to the end of providing for the costs necessary and incidental for the same to invoke the provisions of Articles 281 of the Constitution of the State of Louisiana and the law and laws having reference to said Article of the Constitution, and to repeal any conflict that may exist or arise between this Act and the provision or provisions of any special charter under which village, town or city of the State of Louisiana is now operating.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That every chartered or incorporated village, town and city having a population of not more than ten thousand, of the State of Louisiana, through its governing authorities, shall have the right, authority and power, and the same are hereby specially given to them, to provide for, construct, install and maintain a system of sewerage to embrace their entire respective territorial limits, or any portion of their respective territorial limits as may be segregated and created as a sewerage district by reso-

lution of said governing authorities, which shall be under the exclusive jurisdiction and control of said governing authorities, and to the end of providing for the costs thereof, they are hereby specially authorized to invoke the provisions of Article 281 of the Constitution of the State of Louisiana and any law or laws having reference to said Article in its operation.

Sec. 2. Be it further enacted, etc., That the provision or provisions of any special charter of any village, town or city having a population of not more than ten thousand, of the State of Louisiana, now restricting the costs of any portion of the costs necessary or incidental for the purpose of providing, constructing and installing a sewerage system therein, to an imposition of an assessment or contribution levied against the properties benefited or affected, be and the same is hereby repealed to the extent that the same fails to permit the said village, town or city, or any sewerage district segregated and created therein, to provide for said necessary or incidental costs under Article 281 of the Constitution of the State of Louisiana and the law or laws having reference thereto, and that the provision or provisions of said charter or charters providing, as aforesaid, for the imposition of an assessment or contribution, shall remain as permissive, to be exercised and invoked in the discretion of the governing authorities, and shall be regarded as a right, authority and power in addition to the right, authority and power lodged by this Act to invoke and proceed under the provisions of Article 281 of the Constitution of the State of Louisiana.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

## **MUNICIPALITIES MAY ENFORCE CONNECTION WITH SEWERAGE SYSTEMS.**

**Act 149 of 1918, p. 255.**

### **TITLE.**

**AN ACT** granting right to municipalities having a public system of sewerage to provide for enforcing connection therewith by owners of improved premises within three hundred feet of line of sewerage; to provide for connection of said connection, including line of service pipe and stool, reservoir, etc., and installation thereon, together with connection with water mains for flushing purposes, by having same done under contract to lowest bidder, and permitting owners to pay for the same in five annual installments, or have the option of paying cash. Giving municipal authorities the power to levy costs thereof under special assessments carrying with it a lien and privilege upon property improved; providing for the issuance by the municipality of its own certificates of indebtedness based upon the special assessments against various property holders, providing for the collection of the assessments with penalties and for the method of judicial enforcement of the payment of the assessment.

### **MAY ENFORCE CONNECTION WITH SEWERAGE SYSTEM.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that municipalities having a public system of sewerage may compel the connection therewith by owners of premises within three hundred feet of the public sewer and may compel owners to connect with water mains or provide other means for flushing purposes.

### **NOTICE TO PROPERTY OWNERS.**

Sec. 2. Be it further enacted, etc., That whenever the Mayor and Board of Aldermen or other governing body of any municipality, having a public sewerage system deem it necessary for the public health that owners of one or more premises shall connect their premises with public sewer, ten days notice in writing shall be given to the said owners by registered letter, directed to their last known address, delay beginning to run from said notice, notifying them to connect up with the public sewer is deposited in the post office and if the work of making connection with sewer

is not begun at the end of the ten days, the mayor shall notify the City Engineer to prepare plans and specifications for making the connection with the public sewer, including water, service pipe for flushing purposes; the said plans and specifications shall be uniform, allowing the owner upon written notice to the Mayor, before adoption of the ordinance ordering advertisement, hereinafter provided for, to have installed a more expensive equipment, which the owner must fully and accurately describe, the extra cost of which shall be charged to the particular owner ordering it. The said plans and specifications shall be filed in the City Clerk or Engineer's office, and the Mayor or Board of Aldermen shall adopt an ordinance ordering and describing in general terms the contemplated sewerage connection, giving location of premises and name of owner, and authorizing the Clerk to advertise for bids. The said advertisement shall be inserted at least twice in some newspaper published in such municipality, the first insertion to be not less than ten days prior to date fixed for reception of bids and shall contain a general description of the contemplated sewerage connection. It shall refer to the plans and specifications on file and shall designate the hour, date and place for the reception of bids. The Mayor and Board of Aldermen shall let the contract to the lowest responsible bidder, who shall furnish satisfactory security, but shall have the right to reject any and all bids.

**COST OF WORK—HOW PAID.**

Sec. 3. Be it further enacted, etc., That the entire cost of all the sewerage connections, closet, equipment, pipes, water connections, service pipes, labor and engineering, etc., shall be ascertained by the City engineer and the costs to each property shall be assessed according to the material used, and work done under contract in connecting such property with the public sewer and water main, the engineering expenses shall be charged in proportion that the costs of each connection bears to the whole and the costs of the connection and engineering shall be borne accordingly by each property connected up with the public sewer.

**ASSESSMENT OPERATES LIEN ON PROPERTY.**

Sec. 4. Be it further enacted, etc., That the Mayor and Board of Aldermen shall upon final and satisfactory completion of the work accept the same by ordinance and provide for an assessment against the property connected with the sewerage in the amounts respectively due by the owners thereof, according to the rules of ascertainment and apportionment provided for in Section 3, each assessment being separately numbered; a certified copy of which ordinance containing said assessment shall, upon its passage be filed for record in the office of the Recorder of Mortgages in the parish in which said assessed property is situated, and the same when so filed and recorded shall operate as a lien and privilege in favor of the municipality against all properties therein assessed, which lien and privilege shall prime all other claims except taxes and previously recorded assessments for public improvements upon due authority and the provisions of the laws.

**AMOUNTS ASSESSED ON TAX ROLLS.**

Sec. 5. Be it further enacted, etc., That the amounts assessed in said ordinance shall be placed upon the tax rolls divided in five equal installments, hereinafter provided, the first installment being due and payable at the same time as the regular taxes of the year in which the work is completed, and the other four installments will be due and collectible during the period that the regular taxes are collectible by the municipality, the day of delinquency upon the payment of either of these installments being the 31st day of December of the year in which each installment falls due in principal or in interest. Each installment shall carry the same rate of interest as does the certificate issued by the municipality, and the interest shall be paid annually on all the unpaid installments. The owner of the property shall have the right to pay in cash within ten days after the adoption of the ordinance accepting said work, and shall be entitled to and receive for and on account of the said cash payment, a discount equal to five

per cent per annum on the amount due and paid by him, which discount shall likewise be allowed by the contractor to the City.

In the event any owner of property subject to the lien and privileges hereinabove provided shall fail to pay the amount apportioned against his property at its maturity, the municipality shall have the right to file a rule against the said owner to show cause why the said property should not be sold for the purpose of enforcing payment on the installment or installments due; which rule shall be made returnable after five days of service in the manner required for ordinary citations, and shall be tried by preference, and judgment against the property holder shall be executed in the same manner as ordinary judgments.

#### **CERTIFICATES OF INDEBTEDNESS FOR UNPAID BALANCES.**

Sec. 6. Be it further enacted, etc., That the Mayor and Board of Aldermen, after the expiration of ten days in which the owner or owners may pay cash, shall issue certificates of indebtedness covering the remainder which may be due under any contract let, and sell at one time to one or more than one bidder the entire amount of said certificates so authorized, or in its discretion may offer, sell and deliver them in convenient installments from time to time, as the Board of Trustees may deem advisable, and the said proceeds of said sale used to liquidate the claim of any contractor having done the work accepted. Or it may deliver in liquidation of the contract the certificates on the same basis as the same might have been sold. Such certificates shall be neatly engraved or printed and numbered, and entitled Sewerage Certificates of the particular municipality affected. They shall show on their face the year of their issuance, when they will be paid, and the annual rate of interest, which interest is not to be more than six per cent, and payable annually on each certificate at the maturity of the principal on any of the series, at the option of the governing body or under the terms of the contract entered into. They shall be signed by the Mayor and Secretary or City Clerk, and shall be issued in denominations of one hundred, five hundred or one thousand dollars, as may be deemed advisable. They shall not be sold for less than ninety-five per cent of their par value. Par value as used herein shall mean principal and interest accrued to date of delivery. The maturities of the certificates shall be fixed by the municipality with due regard to the period of maturities of assessments against the various property holders. The certificate shall contain the stipulation that no property holder shall be held liable for any assessment in excess of that actually due by his property, and that the payment of the assessment against his property shall free it from the lien and privilege provided.

The Mayor and Board of Trustees, or other governing body of the municipality may, on the maturity dates of any of the series of certificates, redeem a greater amount of said certificates than those maturing, provided notice of its intention to do so shall have been published in the official journal once a week for fifteen days preceding the date of the maturity of any series. The certificates of indebtedness herein described shall be the obligation of the municipality secured by the lien and privilege on the property affected, shall be payable to bearer, and are declared to be negotiable instruments, and shall be included in the securities described in Act 71 of the General Assembly of the State of Louisiana for the session of 1904, that the same are hereby made acceptable for deposit with the Treasurer of the State of Louisiana in accordance with the terms and conditions of that act.

The funds derived each year from the collection of installments due by the various property holders, as well as the proceeds of the sale of any or all certificates, shall remain a fund specially dedicated to the payment of the certificates hereinabove provided for, and it shall be unlawful for any municipality, or any officer thereof, to use the said fund for any purpose other than that of imputing payment to the certificates hereinabove provided for; and pending their disbursement for said purpose, said funds shall be deposited with the fiscal agent of the city, to the credit of a special account, to be known as "Sewerage Account," and whatever in-

terest shall be earned thereon shall be credited to said fund. The municipality, through its officers, shall be the agent of the contractor for the collection of the installments due, and the payment to the municipality will release the property holder from any further payment and entitle him to a receipt authorizing the cancellation of the lien and privilege recorded against the property, the property holder being in no wise liable beyond the assessment made against his own property.

**DELINQUENCIES IN PAYMENT OF ASSESSMENT.**

Sec. 7. Be it further enacted, etc., That upon any delinquency on the part of the property owner to pay the assessment on or before the date of maturity, as hereinabove set forth, the property holder's assessment shall bear additional interest at the rate of one per cent per month as a penalty, and which interest shall be collectible in the same manner as is provided for in the collection of the unpaid portion of the special assessment.

**ANNUAL INSTALLMENTS.**

Sec. 8. Be it further enacted, etc., That when the assessment rolls for the year in which the work hereinabove provided for, has been filed before the said work has been completed and accepted by the municipality, the tax collector of the municipality shall extend upon the rolls for the year in which the work has been accepted the installments due by the owner of the property for the year, and each successive year thereafter the tax assessor shall extend upon the tax rolls the installments due for that year according to the ordinance levying the assessment.

**LIMITATION ON RIGHT TO CONTEST.**

Sec. 9. Be it further enacted, etc., That after the expiration of sixty days from the publication of the ordinance accepting the work, no person in interest shall have the right to contest the regularity, formality or validity of any proceedings had under the provisions of this act.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That this act shall not affect, disturb or repeal any existing law or powers, granted municipalities under existing charters, to compel and regulate the connection of all property with the sewers and drains, but that Act 249 of 1912 is hereby repealed.

**OPERATE WATERWORKS, SEWERAGE AND LIGHTING SYSTEMS.**

**Act 248 of 1912, p. 550.**

**TITLE.**

AN ACT to authorize cities and towns to procure and operate waterworks, sewerage and lighting systems; to supply cities and towns and the inhabitants thereof with such services and to make rates therefor; authorizing the issuance of bonds, etc., under certain terms and conditions, based upon the rates, charges and revenues of said system such indebtedness not enforceable against cities and towns but only against the systems. Indebtedness against the systems can be reduced as payments are made. Right to make appropriation for water, sewerage and lighting systems. Right to make contracts of lease for acquirement of said systems—rentals to apply as part payment on account of purchase price. Failures to pay rentals shall not cause property to revert to lessor, but the city or town shall have the right to purchase the property for the unpaid portion of the price originally agreed upon, and, issue mortgage notes in payment thereof. Right to exercise powers through city council or through board or commission newly organized, or delegate same to any existing board or commission. Not to repeal laws now conferring right on any existing board or commission but with authorization of cities and towns to vest powers in some other board or commission of city or town council if deemed advisable.

**AUTHORITY TO ESTABLISH, ETC., GARBAGE PLANTS, ETC.**

**Section 1.** (As amended by Act 34, 1914, p. 99.) Be it enacted by the General Assembly of the State of Louisiana, that the municipal authorities of cities and towns are hereby authorized and empowered to establish, purchase, lease, control, construct, maintain and operate garbage plants, waterworks, sewerage, power and lighting systems, and to supply cities and towns, and the inhabitants thereof, with service by such public utilities, under such terms and conditions and manner as may be determined upon and to make rates and charges for supplying water, sewerage, power and light.

**MAY ISSUE BONDS FOR THE PURPOSE.**

**Sec. 2.** (As amended by Act 34, 1914, p. 99.) Be it further enacted, etc., In order to enable such political corporations to carry out any of the above mentioned purposes, they are hereby authorized and empowered to issue bonds, certificates or other forms of indebtedness, to procure such public utilities, and payment of the said obligations shall be based upon the rates, charges and revenues to be earned by any or all of the said public service systems of waterworks, sewerage, garbage, power and lighting.

**TERMS AND CONDITIONS OF BONDS.**

**Sec. 3.** The municipal corporation entering into any of the above mentioned contracts and issuing therefor their above recited obligations, shall make them payable at such time or times and in such numbers and amounts and upon such terms and conditions as they may deem advisable; and these rates, charges and revenues may be pledged by the cities and towns for any or all of the above mentioned systems and be irrevocably dedicated to the payment of such bonds, certificates, or other forms of indebtedness, upon such terms and conditions as may be agreed upon at the time of the issuance of the same, provided that proper deductions from said funds for expenses of maintenance and operation shall be agreed upon at the time of the issuance of the obligations.

**RATES, CHARGES TO PAY BONDS.**

**Sec. 4.** These rates, charges and revenues may be reduced by said cities and towns proportionately, as the debt resting upon the particular system shall have been discharged; and the creditors shall have the right at all times to compel the said cities and towns to perform the obligations incurred by them under this Act and to collect the rates, charges and revenues fixed by original contract and pledge, and shall not be enforceable against the city or town to be collectible from other sources.

**APPROPRIATIONS FOR PAYMENT OF PURCHASE PRICE.**

**Sec. 5.** Cities and towns shall have the right to apply as a payment towards the system or systems—the amounts they are appropriating for service for water sewerage or lighting or they can appropriate a larger amount.

**CONTRACTS FOR LEASE—ACQUISITION, ETC. OF WORKS.**

**Sec. 6.** Cities and towns are hereby given the right to make contracts of lease for acquirement of a system or systems of property for any of the systems mentioned in this Act in which shall be embodied the right to purchase the system or property from the lessor or lessors for a fixed sum of rental payable in installments in such amounts as may be agreed upon and all installments paid during the terms of the lease shall be and must be applied as a payment on account of the purchase price agreed upon and there shall be embodied in the contract of lease that when the final installment has been paid the property shall be the sole property of the city or town and they shall always have the right to anticipate payment of installments. In case of the failure of the city or town to make punctual payment of the installments—they may be extended if mutually agreed

upon—but if not done—the system of property shall not revert to the lessors—but the city or town shall buy the property for the unpaid portion of the price originally named in the lease and shall issue mortgage notes bearing on said property to secure the unpaid portion and the payment shall be in equal installments of one, two, three, four and five years—with interest at the rate of six per cent per annum and said act of mortgage shall contain all the usual security clauses.

**CONDUCT OF SYSTEMS.**

Sec. 7. Cities and towns are hereby authorized to carry out the intents and purposes of this Act—through the city or town council, or through such board or commission as they may organize; or they may delegate the authority to any existing board or commission, either for all or any of the systems, herein mentioned—and the powers and duties of such boards or commissions shall be; prescribed by the councils. But this Act shall not repeal laws now conferring rights upon any existing board or commission, unless the cities or towns should vest the powers of this Act in some other board or commission, or should act through its own city or town council.

**REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict be and the same are hereby repealed.

**REGULATE BUILDINGS.**

**Act 27 of 1918, p. 35.**

**TITLE.**

AN ACT giving authority to cities of over 50,000 inhabitants to regulate buildings within their limits; defining the kind, style and manner of construction of buildings and other edifices which may be erected on certain designated streets and thoroughfares and permitting or prohibiting the establishment and operation of businesses and trades in designated limits.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that the municipal authorities of cities of more than 50,000 inhabitants shall have authority by ordinance to define and regulate the kind, style and manner of construction of buildings and other edifices which may be erected on certain designated streets and thoroughfares and to permit or prohibit the establishment and operation of businesses and trades within designated limits.

Sec. 2. Be it further enacted, etc., That it shall be competent for the municipal authorities to enforce the ordinances adopted in pursuance of the provisions of the preceding section, by fine or imprisonment, or both, as now authorized by existing statutes for the enforcement of municipal ordinances.

Sec. 3. Be it further enacted, etc., that all laws or parts of laws in conflict with the present set be and the same are hereby repealed.

**TO CONDEMN BUILDINGS, ETC.**

**Act 175 of 1910, p. 259.**

**TITLE.**

AN ACT empowering the authorities of municipal corporations to condemn and cause to be demolished and removed, any building or other structure situated within such municipality, which by reason of its nature or condition, endangers the public welfare or safety, and providing a method of removing such building or structure at the expense of the owner.

## **1356 Municipal Corporations—Condemnation of Buildings.**

### **POWER VESTED IN MUNICIPALITY.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of all municipal corporations, now existing or hereafter created in the State of Louisiana, be and they are hereby given the power and authority, to condemn and cause to be demolished and removed, any building or structure within such municipality when such building or structure is in a dilapidated or dangerous condition and endangers the public welfare or safety, because of its nature or condition.

### **CONDEMNATION—HOW EXECUTED.**

**Sec. 2.** Be it further enacted, etc., That whenever the village, town or city council or board of aldermen of any municipal corporation of the State of Louisiana shall have declared a building or structure condemned as dangerous to the public welfare or safety, because of its nature or condition as above stated, the mayor shall serve notice on the owner of such building or structure, and if the owner be absent from the state, then said notice shall be served upon the occupant of the condemned building or structure, commanding him to show cause, if any he has, before the next regular meeting of the council or board of aldermen, why said owner or occupant should not demolish and remove such condemned building or structure, and the decision of the council or board of aldermen shall be final, unless appealed from within ten days from such decision, and in the event of an appeal, the District Court having jurisdiction of the property, shall have jurisdiction of the appeal and the trial in the District Court shall be de novo and by preference.

### **NOTICES, HOW SERVED.**

**Sec. 3.** (As amended by Act 63, 1918). Be it further enacted, etc., That the notice to show cause provided for in this act may be served by the marshal of said municipal corporation or by any sheriff or deputy sheriff or constable having jurisdiction and power to make such service where the owner of the building or structure condemned shall be found in the State of Louisiana, or at his domicile within said State, which officer, making service, shall make due return of the service as in ordinary cases. The owner, occupant or representative of such condemned building or structure shall be served with said notice at least 10 days prior to the day on which he is to appear and show cause at the meeting of the council or board of aldermen.

### **REFUSAL TO COMPLY WITH ORDERS.**

**Sec. 4.** Be it further enacted, etc., That in the event the owner or occupant of such building or structure fails or refuses to comply with the decision of the village, town or city council, or board of aldermen, or the definite judgment of any court then and in that event the municipal authorities may demolish and remove such condemned building or structure, and for the reimbursement of the expenses entailed by so demolishing and removing such building or structure, the municipality shall have a lien and privilege of first rank against the lot upon which the building or structure is situated, and in order to preserve such lien and privilege it shall be the duty of the mayor to prepare and sign a statement of facts, giving the description of the property and the approximate cost of demolishing and removing the building or structure, which statement of facts he shall cause to be filed and recorded in the mortgage office of the parish in which the property is located, and the village, town or city, shall be entitled to recover the amount of such expense as aforesaid together with all costs of court, by ordinary process in the District Court having jurisdiction of the property.

### **ATTORNEY TO REPRESENT ABSENT OWNERS.**

**Sec. 5.** Be it further enacted, etc., That in the event the building or structure is unoccupied and its owner is absent from the State, the mayor shall appoint an attorney at law to represent the absentee, contradictorily

with whom the removal proceedings may be carried on, and in this event, by also causing a copy of the notice to show cause, to be posted on the principal door of the building or structure to be condemned and the attorney appointed to represent the absentee shall be paid by the municipality such fee as the council or board of aldermen may think proper, which fee shall in all cases be taxed as court costs.

**REPEALING CLAUSE.**

Sec. 6. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**CONSTRUCTION OF BUILDINGS.**

**Act 76 of 1910, p. 122.**

**TITLE.**

AN ACT authorizing municipalities of over 100,000 inhabitants to adopt ordinances for the construction, equipment, alteration, repair and removal of buildings, structures, walls and party walls, and repealing all laws or parts of laws in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the city council, or other governing body, in municipalities of over 100,000 inhabitants, is hereby authorized and empowered, to adopt ordinances with the property penalty for their violation thereto attached, providing for or relating to the construction, equipment, alteration, repair and removal of buildings, structures, walls and party walls.

Sec. 2. Be it further enacted, etc., That such ordinances shall prevail over and supersede any existing laws on the statute books of the state, and that all laws or parts of laws in conflict with this act be and the same are hereby repealed.

**FIRE LIMITS—BUILDING REGULATIONS.**

**Act 234 of 1908, p. 350.**

**TITLE.**

AN ACT to authorize all municipalities in the State containing a population exceeding one thousand, the City of New Orleans excepted, to provide for the prevention of fires by establishing fire limits, by prohibiting the construction of frame buildings within such limits, or the removal or relocation of such buildings therein, by regulating the thickness of the outside walls and of the partition walls of buildings, to be constructed or located in said limits; by requiring building permits; by preventing the material repair of buildings within such limits except under certain conditions; by establishment of sub-fire limits; and by authorizing such municipality to enforce obedience to their ordinances passed under the provisions hereof and to guard against the violation of the same, and by repealing all laws in conflict herewith, and especially Act No. 91, 1906.

**POWER TO ESTABLISH FIRE LIMITS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all municipalities in this State containing a population exceeding one thousand, the City of New Orleans excepted, shall, in addition to the powers already conferred upon them relative to fires, have and possess authority to provide for the prevention of fires by establishing fire limits and by prohibiting the construction or relocation or removal of frame buildings within such limits, or the construction of frame additions to buildings therein.

**TO ESTABLISH THICKNESS OF WALLS.**

Sec. 2. Be it further enacted, etc., That all such municipalities shall have and possess authority to regulate, to such extent as to safeguard

against the spread of conflagration therein, the thickness of the outside or fire walls of all buildings to be constructed within such limits, and also to reasonably regulate partition walls in such buildings, where such regulation is proper to prevent the spread of fire.

#### **REPAIRS AMOUNTING TO RECONSTRUCTION.**

Sec. 3. Be it further enacted, etc., That all such municipalities shall have and possess power to prohibit material repairs to frame buildings within said limits, and to reasonably regulate repairs on other than frame buildings therein. By material repairs, as above used, shall be understood not only those that increase the fire risk, but also those that appreciably tend to perpetuate it.

#### **BUILDING PERMITS, ETC.**

Sec. 4. Be it further enacted, etc., That all such municipalities shall be authorized to require building permits and permits for repairs, which permits shall be granted according to uniform rules, and shall never be refused when the application setting forth the character of the building to be constructed, or the nature of the repairs, conforms to the requirements of the ordinances of the municipality passed in pursuance of this Act, provided that all such applications shall be passed upon by the governing body of the municipality, or the committee designated by it, within ten days after the filing of the same.

#### **SUB-FIRE LIMITS.**

Sec. 5. Be it further enacted, etc., That all such municipalities shall have and possess the further power of establishing sub-fire limits adjacent to and outside the fire limits proper, and to provide and make reasonable regulations to govern said sub-fire limits.

#### **POWER TO PUNISH VIOLATIONS.**

Sec. 6. Be it further enacted, etc., That all such municipalities shall have and possess power to punish the infringement of ordinances passed hereunder within the limits prescribed by their respective charters, and in addition thereto, to remove or cause to be removed at the expense of the owner or owners thereof the buildings, repairs or additions built or made contrary to the specifications of such ordinances.

#### **REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict herewith, and especially Act No. 91 of 1906 on the same subject matter, be and the same are hereby repealed.

### **SEGREGATION OF RACES—BUILDING PERMITS.**

**Act 117 of 1912, p. 139.**

#### **TITLE.**

AN ACT authorizing municipal corporations of this State to withhold permits for building negro houses in white communities or portions of the municipality inhabited principally by white people, and to withhold permits to build houses for white people in negro portions of the municipality, except on the consent of a majority of the inhabitants of such portion of the municipality of the opposite race, defining what is meant by white community and negro community as used in this act, and providing penalties for the violation thereof.

#### **USE OF BUILDING PERMITS FOR PURPOSE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the various municipalities of this State shall have the right to withhold building permits to such persons as seek to build and construct negro houses in a white community or portion of such municipality inhabited principally by white people, and to withhold building permits to those who seek to build houses for white people in a negro com-

munity of such municipality, except on the written consent of a majority of those belonging to the opposite race inhabiting such community or portion of the city to be affected.

**"WHITE" AND "NEGRO" COMMUNITY.**

Sec. 2. Be it further enacted, etc., That the terms "white community" and "negro community" as used in this act shall be taken and held to mean any subdivision or portion thereof or any street which is inhabited principally by white people or negroes as the case may be.

**VIOLATIONS—PENALTIES.**

Sec. 3. Be it further enacted, etc., That any firm, corporation or individual violating the provisions of this act by building or constructing such houses without a permit from the municipal corporation where located, shall on conviction be fined not less than fifty dollars nor more than two hundred dollars for each offense and moreover the municipality shall have the right to cause said building to be removed and destroyed.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws or parts of laws contrary hereto be and the same are hereby repealed and this act shall take effect from and after its passage.

**AUTHORITY TO PURCHASE FIRE APPARATUS.****Act 176 of 1916, p. 406.****TITLE.**

AN ACT to authorize villages and towns in this state, to purchase fire apparatus or appliances for protection from fire; to issue negotiable certificates of indebtedness therefor, and to provide a means of payment out of any excess of revenues of future years.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the mayor and board of aldermen of any town or village of this state, after providing for all statutory charges to be paid from the respective funds upon which they are imposed; all charges for services rendered annually under time contracts, and all necessary and usual charges provided for by ordinance or resolution, and they are of the opinion that the public interests of said village or town require a better protection from fire, said mayor and board of aldermen shall have the power to purchase such fire apparatus and appliances for protection from fire as they may deem necessary, for said villages or town, not exceeding, however, in cost the sum of \$5,000.00, the title to which property shall be vested in said village or town, and may issue negotiable certificates of the said village or town in whole or in part therefor, said certificates to bear interest at a rate not to exceed 5% per annum, payable semi-annually.

Sec. 2. Be it further enacted, etc., That the amount of certificates of indebtedness so issued shall not exceed in any one case the sum of \$5,000.00, and shall not be issued for a longer period than 10 years; that the said mayor and board of aldermen be, and they are hereby authorized in order to pay said certificates of indebtedness to appropriate, dedicate and set aside in whole or in part the excess of annual revenues of subsequent years above statutory, necessary and usual charges not in excess of the limitation fixed by the Constitution of this state, provided that such certificates of indebtedness shall not have any longer terms fixed for payment than ten years from the date of the contract of purchase, and provided further, that no dedication of future revenues shall be made to which, alone or with other prior dedications in force, shall exceed the estimated excess of revenues over the statutory, necessary and usual charges of the year in which the agreement or contract is made.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws contrary to, or in conflict with the provisions of this act be, and the same are hereby repealed.

**LEAVE OF ABSENCE FOR FIREMEN. ETC.****Act 194 of 1908, p. 289.****TITLE.**

**AN ACT** promoting the efficiency of uniform paid firemen in cities of Louisiana over 50,000 inhabitants and having paid fire departments.

**Section 1.** (As amended by Act 16, 1916, p. 46.) Be it enacted by the General Assembly of the State of Louisiana, That in all cities having a population of over 50,000 inhabitants, and having uniform paid firemen, that all officers and members of said paid fire department, shall be alternately relieved from duty for a space of twenty-four hours every six days without loss of pay and that the chief and assistant chiefs shall further be allowed an annual leave of absence for 30 consecutive days in each year without loss of pay, and all other officers and members of said fire department shall be granted an annual leave of absence for 15 consecutive days in each year without loss of pay under such rules and regulations and subject to such restrictions as the fire board for the respective cities may find necessary in order to maintain the efficiency of said fire department.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect and be in force from and after the first day of January, 1909, and that all laws or parts of laws in conflict herewith be and are hereby repealed.

**AWARD OF GOLD MEDAL FOR SERVICES.****Act 203 of 1914, p. 389.****TITLE.**

**AN ACT** to provide the manner in which awards of gold medals shall be made to members of the police and fire departments in cities having a population of 50,000 or more, for valorous services rendered in connection with the performance of their duty; and providing for the creation of a Board of Awards of Medals to such members of said police or fire departments, its personelle, the cost of said medals, and the manner of withdrawal of same.

**AWARD OF MEDAL FOR VALOR, ETC.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any member of a police or fire department, who, in the regular performance of his duty, shall render some act of valor, or any act conducive to the betterment and credit of the department of which he is a member, shall be awarded a gold medal of honor, properly inscribed, to be presented by the board created by this Act.

**DISCRETION OF MAYOR, ETC.**

**Sec. 2.** Be it further enacted, etc., That the board created by this act shall consist of the mayor and of the heads of the police and fire departments, who shall sit in session whenever such deeds of valor, or acts conducive to the betterment and credit of said department shall be brought to their attention by anyone; said board shall be vested with full discretion in the matter of the awards of said gold medals, after a full investigation of all matters covered by the purposes of this act.

**COST OF MEDALS.**

**Sec. 3.** Be it further enacted, etc., That the gold medals to be awarded, or hereinabove provided for, shall not cost less than \$10.00 nor more than \$50.00, and it is hereby made the duty of the city treasurer, of all cities in which this act is applicable, to honor the cost voucher of any medal awarded under this act when approved by the mayor of said city.

**WEARING OF MEDAL.**

**Sec. 4.** Be it further enacted, etc., That it is hereby made the duty of every such member of the police or fire department, honored with the reward of such medal in recognition of his deed of valor or act conducive

to the betterment and credit of the department of which he is a member, to wear said medal when in service or on parade.

**WITHDRAWAL OF MEDAL.**

**Sec. 5.** Be it further enacted, etc., That any such member of said police or fire department, who shall be awarded the medal herein provided, shall have the same withdrawn for any act bringing discredit or shame to the department of which he is a member, or any act destructive of department discipline.

**REPEALING CLAUSE.**

**Sec. 6.** Be it further enacted, etc., That all laws or parts of laws in conflict with this act be, and the same are, hereby repealed.

**TO MAINTAIN LEVEES.****Act 152 of 1916, p. 374.****TITLE.**

AN ACT to authorize cities and towns to construct and maintain levees for protection from high waters, and from overflow, and to that end to expropriate lands necessary for such works, and providing a procedure therefor, and to grant right of way over lands of the State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That cities and towns incorporated under the laws of this state are authorized and empowered to build and maintain levees within the limits of the municipality, or in its immediate vicinity, for the protection thereof from overflow, or from the high waters of streams affecting them, and to that end and for such purposes to expropriate any lands within or without the corporation, necessary for such works.

**Sec. 2.** Be it further enacted, etc., That expropriation proceedings under this act shall be upon due compensation, and shall be conducted in accordance with, and be governed by the provisions of Articles 2626 to 2641 inclusive, of the Revised Civil Code of the State of Louisiana, which are made in all respects applicable thereto.

**Sec. 3.** Be it further enacted, etc., That right of way over all lands of the state for the purposes aforesaid is hereby granted, when authorized by the Governor of the State.

**MAY REGULATE USE OF STEAM BOILERS—BOARD OF EXAMINERS.****Act 15, 1908, p. 16.****TITLE.**

AN ACT empowering municipalities of over fifty thousand inhabitants to locate and regulate the use of stationary and portable steam boilers and to constitute and appoint a board of examiners of stationary and portable steam boiler engineers for the carrying out of this purpose.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the power and authority is hereby vested in municipalities of over fifty thousand inhabitants through their local councils to regulate the use of stationary and portable steam boilers, and to constitute and appoint a Board of Examiners of stationary and portable steam boiler engineers for the carrying out of this purpose, to fix their powers and responsibilities and to authorize the fixing of certain fees for their maintenance, provided, this shall not apply to steam railroads operating within the limits of said cities.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its promulgation.

**Note.** Authority to regulate the use of steam boilers, does not warrant a municipal ordinance which imposes an annual license on steam boiler engineers. Such a license tax violates Const. Art. 229. City of New Orleans vs. Cosgrove, 129 L. 685.

**Note.** Act 107, 1908, p. 250. To regulate the installation of electrical apparatus is not printed having been declared unconstitutional in State vs. Ganz, 124 L. 535.

**REGULATION OF WIRES AND ELECTRIC CURRENT.****Act 217 of 1910, p. 353.****TITLE.**

**AN ACT** authorizing municipalities of the State of Louisiana of over twenty-five thousand inhabitants to regulate persons, firms and corporations installing wires or apparatus to convey electric current for light, heat, and power.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all municipalities of the State of Louisiana, with over twenty-five thousand inhabitants, be and they are hereby authorized to pass and enact laws and ordinances for the purpose of regulating persons, firms and corporations pursuing or engaged in the business of installing wires or apparatus to convey electric current for light, heat or power, and in furtherance thereof, and to better carry out the intentions of this act, the mayor of said municipalities, by and with the consent of the council are authorized and empowered to appoint a board or commission to be composed of not more than five members, of which the city electrician of each of said municipalities shall be a member and chairman; provided, that the remaining four members shall be electricians, who have had five years experience as such; and the said municipalities may in their discretion vest this board or commission with full power, control and regulation of said business; provided the power or final inspection of any of said work shall be vested solely in the city electrician of said cities. Said municipalities are further authorized and vested with full power to enforce compliance with these rules and regulations and to provide methods of punishment for the violation thereof.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws, contrary to or in conflict with the provisions of this act, be and the same are hereby repealed.

**BOARD OF EXAMINERS OF PLUMBERS, ETC.****Act 194 of 1902, p. 378.****TITLE.**

**AN ACT** to promote the public health by creating Boards of Examiners of Plumbers and defining their duties, and to provide for rules and regulations concerning plumbing work and providing penalties for the violation thereof.

**APPOINTMENT OF BOARD.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all cities having a population of thirty thousand (30,000) or more people, the mayor of each city shall appoint, with the consent of the common council of the city, for a term of four years, five plumbers, at least two of whom shall be journeyman plumbers, who together with the President of the Board of Health and City Engineer, shall constitute and act as a Board of Examiners of Plumbers, and whose duty it shall be to examine all plumbers as to their practical knowledge and all other requirements of the business of plumbing; and shall submit the applicant to some satisfactory forms of practical tests; and if satisfied with the competency of said applicant, shall thereupon issue a permit to such applicant authorizing him to engage in the business of plumbing either as a master plumber or as a journeyman plumber; which permit shall be renewed from year to year without re-examination. Provided, that all persons actively engaged in the business of plumbing in the State of Louisiana, either as a master plumber or journeyman plumber, for twelve months previous to the passage of this act, shall be entitled to receive a permit without passing an examination.

**POWER TO ADOPT RULES.**

Sec. 2. Be it further enacted, etc., That the said Board of Examiners in said cities shall have power to adopt rules and regulations for the sanitary construction, alteration and repairing of all plumbing placed within or connected with any building in such cities, and no plumbing work shall be performed without a permit first obtained from said board, provided, that the plumbing work of all buildings in course of construction or hereafter to be constructed in said cities after the passage of this act, shall be done in such manner as to conform to the sanitary rules of the sewerage authorities of said cities.

**INSPECTORS OF PLUMBING.**

Sec. 3. Be it further enacted, etc., That the said Board of Examiners of such cities shall appoint one or more plumbing inspectors who shall be practical plumbers, whose duty it shall be to inspect all plumbing work, for which permits are hereafter granted within said cities, in process of construction, alteration, or repair, and shall report to said board all violations of any law, ordinance or regulation concerning plumbing work, and shall also perform such other appropriate duties as may be required.

**EXAMINATION OF PLUMBERS.**

Sec. 4. Be it further enacted, etc., That any person engaged, or any person hereafter engaging in the business either as a master plumber or a journeyman plumber, shall within thirty days from the organization of said Board of Examiners, or from engaging in the business of plumbing apply to the said board and after undergoing an examination as to his qualifications, or show that he has been twelve months in business, as provided in section 1, if he shows his competency, shall be granted a permit to ply his trade.

**LICENSE—PERMITS.**

Sec. 5. Be it further enacted, etc., That no license shall be granted or issued by the municipal authorities to a master plumber, except upon production of a permit from the Board of Examiners, and no master plumber shall employ a journeyman plumber who has not secured the permit above provided for.

**ALTERATION AND REMOVAL OF PLUMBING.**

Sec. 6. Be it further enacted, etc., That the Board of Examiners shall have the power to order the alteration or removal of any plumbing work which shall be performed in violation of rules and regulations governing such work, and said alteration or removal shall take place within ten days from notice served on the owner or agent of the property by the said board, and after the expiration of the ten days the alteration or removal shall be done by the said board at the expense of the owner, which said expense shall be a lien on the property until paid, and the owners or agents shall be liable to punishment according to the provisions of this act.

**FEES.**

Sec. 7. Be it further enacted, etc., That the Board of Examiners shall have the power and are hereby authorized to charge moderate fees to defray the necessary expenses of the carrying out of the purpose of this law, provided the said fees and all fees herein mentioned shall be approved by the city councils of said cities, and to hire and fix the salaries of their employees, which they shall pay out of the fees above provided for.

**VIOLATIONS—PENALTIES.**

Sec. 8. Be it further enacted, etc., That any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction be subject to a fine of not more than twenty-five dollars or imprisoned for a period not exceeding thirty days.

**REPEALING CLAUSE.**

**Sec. 9.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

**Note.** See Schneider et al vs. Local Union, 116 L. 270.

**SMOKE CONSUMERS.****Act 111 of 1898, p. 157.****TITLE.**

**AN ACT** requiring all persons owning or controlling steam plants operated in incorporated cities or towns containing fifty thousand (50,000) inhabitants or more to provide such plant with the necessary appliances to properly consume the smoke of said plants. The appliance adopted to be such as will consume not less than seventy-five (75) per centum of the smoke, and providing penalties for the neglect or failure to comply with the requirements of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the owner, manager, director or agent of all steam plants, now existing, or which may hereafter exist within incorporated cities or towns of this State, containing fifty thousand (50,000) or more inhabitants shall, within nine (9) months after the passage of this act, provide for the use of said steam plant, smoke consumers, or other necessary appliances competent to consume not less than seventy-five per centum of the smoke resulting from the burning of fuel used in providing motive power for such plant, and shall have the appliance in operation within nine (9) months after the passage of this act.

**Sec. 2.** Be it further enacted, etc., That immediately on the passage of this act, the owner, manager, director or agent, or person or persons controlling steam plants now in operation, or which may be hereafter operated within incorporated cities or towns, containing fifty thousand (50,000) inhabitants or more, shall provide their plants with smoke consumers, in accordance with the provisions of this act, and the failure to place smoke consumers, or other appliances in said plant within the time prescribed by this act, shall subject the person responsible for the control or management of said steam plant to a fine of twenty-five dollars (\$25), or thirty (30) days' imprisonment for each and every day that said plant is operated thereafter without the appliance, said fine to be recoverable before any court of competent jurisdiction.

**Sec. 3.** Be it further enacted, etc., That this law shall take effect from and after its passage.

**REGULATION OF MOTION PICTURE THEATRES, ETC.****Act 180 of 1914, p. 339.****TITLE.**

**AN ACT** providing for the regulation by cities, towns or villages of this State of moving picture theatres and shows, nickelodeons, theatroriums, penny, five and ten-cent arcades, and all places of amusement or education showing, operating or displaying motion pictures; providing for the work of regulation by censorship; and authorizing said cities, towns and villages, to fix the penalty for violation of said regulations.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any city, town or village in this State shall from and after the promulgation of this act, through its proper legislative branch, be authorized and empowered to adopt any ordinance or law for the regulation, by censorship, of moving picture theatres and shows, nickelodeons, theatroriums, penny, five and ten-cent arcades, and all places of amusement or education, showing, operating or displaying motion pictures, for which an admission charge has or has not been made.

**Sec. 2.** That said ordinance or law shall designate the functions and duties of the censors and their number and the mode in which they shall be selected and the tenure of their office and such compensation as they may receive, should said censors be remunerated for their services.

**Sec. 3.** That said cities, towns and villages are hereby authorized to punish any violation of said regulation, by fine not exceeding twenty-five dollars (\$25.00) or imprisonment, not exceeding thirty (30) days or both at the discretion of the Court.

**Sec. 4.** That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**Note.** Note the absence of enacting clauses to Sections II. to IV.

## REGULATION OF BUTCHER SHOPS, BAKERIES, ETC.

**Act 60 of 1918, p. 93.**

### TITLE.

AN ACT giving the municipal authorities of any incorporated city in the State of Louisiana, having a population of over 100,000 inhabitants, the power and authority to regulate or prohibit the opening and closing of butcher shops and meat markets, baker shops and bakeries and the sale and delivery of bakery products within their corporate limits on Sunday; and giving said cities the authority to punish by penal ordinance violators of their ordinances passed in pursuance of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of any incorporated city in the State of Louisiana, having a population of over 100,000 inhabitants, shall have the power and authority to regulate or prohibit the opening and closing of butcher shops and meat markets, baker shops and bakeries and the sale and delivery of bakery products within their corporate limits on Sunday.

**Sec. 2.** Be it further enacted, etc., That the said cities shall have authority to punish by penal ordinance violators of their ordinances passed in pursuance of this act.

**Sec. 3.** Be it further enacted, etc., That this act shall become effective from its promulgation.

## POWER TO REGULATE BUTCHER SHOPS, ETC.

**Act 10 of 1914, p. 11.**

### TITLE.

AN ACT giving the municipal authorities of any incorporated city or town in the State of Louisiana, having a population of over 25,000 and under 100,000 inhabitants, the power and authority to regulate or prohibit the opening and closing of butcher shops and meat markets, baker shops and bakeries within their corporate limits on Sunday; and giving said cities and towns the authority to punish by penal ordinance violators of their ordinances passed in pursuance of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of any incorporated city or town in the State of Louisiana, having a population of over 25,000 and under 100,000 inhabitants, shall have the power and authority to regulate or prohibit the opening and closing of butcher shops and meat markets, baker shops and bakeries within their corporate limits on Sunday.

**Sec. 2.** Be it further enacted, etc., That the said cities and towns shall have authority to punish by penal ordinance violators of their ordinances passed in pursuance of this act.

**Sec. 3.** Be it further enacted, etc., That this act shall become effective from its promulgation.

**REGULATING HAWKING AND PEDDLING.****Act 22 of 1900, p. 28.****TITLE.**

**AN ACT** authorizing all municipalities in the State of Louisiana, of over fifty thousand population, to pass ordinances and laws regulating the hawking and peddling on foot or otherwise, in the streets and thoroughfares of said municipalities of market produce, vegetables, meat, fish, game, fruit and oysters, and authorizing said municipalities to punish the violation of said laws and ordinances, by fine or imprisonment and repealing all laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all municipalities in the State of Louisiana, with over fifty thousand population, are hereby authorized to pass and enact laws and ordinances regulating the hawking and peddling on foot or otherwise, in the streets and thoroughfares of said municipalities of market produce, vegetables, meat, fish, game, fruit and oysters, and said municipalities are further authorized to enforce said laws and ordinances by fine or imprisonment.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

**REGULATION OF BARBER SHOPS.****Act 66 of 1900, p. 113.****TITLE.**

**AN ACT** empowering incorporated cities and towns having a population not exceeding fifty thousand to regulate or prohibit the opening or closing of barber shops on Sunday.

**Section 1.** (As amended by Act 24, 1906, p. 34). Be it enacted by the General Assembly of the State of Louisiana, That the municipal authorities of any incorporated city or town in this state shall have power and authority to regulate or prohibit the opening and closing of barber shops within their corporate limits on Sunday.

**Sec. 2.** (As amended by Act 24, 1906, p. 34). Be it further enacted, etc., That said cities and towns shall have authority to punish by penal ordinance violations of their ordinances passed in pursuance of this act.

**Sec. 3.** (As amended by Act 24, 1906, p. 34). Be it further enacted, etc., That all laws and parts of laws in conflict with this act be, and the same are hereby repealed.

**REGULATION OF POOL ROOMS.****Act 206 of 1902, p. 397.****TITLE.**

**AN ACT** granting authority to all municipal corporations having less than fifty thousand (50,000) inhabitants, to regulate pool rooms and turf exchanges, and repealing all laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That authority is hereby granted all municipal corporations having less than fifty thousand (50,000) inhabitants to regulate, within their limits, pool rooms and turf exchanges.

**Sec. 2.** Be it further enacted, etc., That to make their ordinances effective in the exercise of the authority here conferred, all municipalities shall have authority to prescribe such penalties for the violation of the same as they may now prescribe for the violation of other ordinances passed under their respective charters.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**Note.** See Act 128, 1904, printed at p. 454.

**Note.** The conduct of a pool room and turf exchange is within a class of business which under the police power of the State, may be regulated, discriminated against or suppressed. This power of the State has been delegated to municipalities having less than 50,000 inhabitants, and authorizes them to confine the business within prescribed limits. The power to regulate, where exercised with the bona fide intention to regulate may be exercised, though its effect be to render the business so unprofitable as to make it perish. The legitimate exercise of the police power is not controlled or affected by the provisions of the fourteenth amendment to the Constitution of the United States. *City of Shreveport vs. Shulsinger*, 113 L. 9. *State vs. Maloney*, 115 L. 498.

## SALE OF LIQUOR WITHOUT FIRST OBTAINING LICENSE.

**Act 8 of 1896, p. 8.**

### TITLE.

AN ACT authorizing city councils of municipal corporations to pass ordinances relative to the sale of liquor without first obtaining license.

Be it enacted by the General Assembly of the State of Louisiana, That the city councils of municipal corporations throughout the state are hereby empowered to pass ordinances authorizing the arrest and prosecution before the mayor's or recorder's courts of said corporations of any person or persons selling liquors within the corporate limits, without having previously obtained a license, and the said ordinances may be enforced by fines and otherwise just as ordinances against breaches of the peace in said cities are enforced.

**Note.** The issue of the constitutionality of the act cannot be raised on certiorari and prohibition. The court below had jurisdiction of the case, and if applicant thinks himself aggrieved by the judgment rendered, the error, if any, may be remedied by appeal. *State ex rel Perrilleaux vs. Magistrate*, 49 A. 1211. The defendant was charged with violating an ordinance based on Act 8, 1896, and excepted to the jurisdiction of the court and pleaded the ordinance and act were unconstitutional. The exceptions being overruled, he answered admitting the offense, was fined and paid the fine; writs of certiorari and prohibition were denied (49 A. 1211 supra). He then sought to appeal which the judge would not allow and applied for mandamus to compel the grant. Held the payment of the fine constituted acquiescence and the writ was denied. *State ex rel Perrilleaux vs. Codder*, 50 A. 388.

The Act is not unconstitutional, though trials for violations of municipal ordinances based on it may be without jury *corporation of Amite City vs. Holly*, 506 L 27. See also *City of Shreveport vs. Maroun*, 134 L. 490.

## MUNICIPALITIES MAY PROHIBIT LIVE STOCK FROM RUNNING AT LARGE.

**Act 245 of 1916, p. 519.**

### TITLE.

AN ACT to authorize cities, towns and villages in this state to regulate, restrict and prohibit live stock of all kinds from running at large in the corporate limits, and to establish impounding pens and employ pound keepers; to fix impounding fees, and to provide for the sale and disposition of impounded animals.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all cities in this state, and all towns in this state having a population of more than one thousand; and all towns and villages in this state having a population of one thousand or less and situated within three miles of the corporate limits of any city having a population of twenty-five thousand or more, are hereby vested with police power and authority to regulate, restrict, and prohibit by proper ordinances, the running at large of livestock of all kinds, within the corporate limits of said

cities, towns and villages; to establish impounding pens and yards, and to employ pound keepers; to fix impounding fees and charges, and to provide for the sale or disposition of impounded animals or stock.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent herewith be and the same are hereby repealed.

**Note.** Act 60, 1904, p. 141 is on the same subject matter, and though not repealed in terms is so in fact.

**Note.** Under this act appeals will lie from the City Court of Crowley to the District Court for the Parish. The Legislature had the power to confer appellate jurisdiction on the District Courts in cases in which there could not otherwise be an appeal. State vs. Melles, 117 L. 658. The Supreme Court is without jurisdiction in such cases where the fine imposed is less than \$300. (Hart vs. Judge, 113 L. 654). State vs. Fulco, City of Shreveport vs. Fulco, 135 L. 269, id. 273, id. 274. Where the appellant fails to file the transcript before the expiration of ten full legal days from date of sentence, the appellee may have the appeal dismissed. Town of Rayville vs. Long, 136 L. 1089. Kentwood vs. Fenderson, 142 L. 902. See Hammond vs. Badeau, 137 L. 58.

## USE OF UNCOVERED PATROL WAGONS.

**Act 17 of 1894, p. 13.**

### **TITLE.**

**AN ACT** to prevent the use of uncovered patrol wagons for the conveyance of prisoners and prescribing penalties for the violations thereof.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all cities and towns of twenty thousand (20,000) or upwards population in this State, owning, controlling or employing patrol wagons, busses, vans, or other vehicles of any kind for the purpose of conveying prisoners to police stations, jails, workhouses or penitentiaries or other place of detention for such prisoners shall provide suitable covers or canopies for such patrol wagons, busses or vehicles so that the prisoners which may be conveyed therein shall not be exposed to public view.

**Sec. 2.** Be it further enacted, etc., That it shall be unlawful for the authorities or officers of any such city in this state to compel any person who is under arrest, imprisoned, or detained or in their care, custody or charge to ride or to be driven in an open or uncovered patrol wagon, omnibus, van or other vehicle of any class named in first section of this act, in or through the streets or other public places in this state.

**Sec. 3.** Be it further enacted, etc., That any sheriff, coroner, policeman, warden or any other officer of such city or town who violates the provisions of this act shall be fined not less than twenty dollars nor more than one hundred dollars or be imprisoned for not less than thirty nor more than ninety days.

**Sec. 4.** Be it further enacted, etc., That this act shall go into effect October 1, 1894.

## SALE OF DEBILITATED, ETC., HORSES AND MULES.

**Act 289 of 1908, p. 429.**

### **TITLE.**

**AN ACT** to regulate the sale of debilitated, diseased and lame horses and mules in cities having a population of one hundred thousand or more.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person to sell either at private sale, or public auction, or to offer or receive for sale any horse or mule which by reason of debility, disease, or lameness, or for any other cause could not be worked in the city in which it is offered for sale without violating the laws against cruelty to animals, provided that this act shall apply only in cities in the State having a population of one hundred thousand or more.

**Sec. 2.** Be it further enacted, etc., That any licensed auctioneer violating this act or any of its provisions, and any other persons violating the provisions of this act, shall be punished by fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) or by imprisonment for not more than six months.

**PENSIONS FOR OFFICERS OF POLICE DEPARTMENT,  
ETC.****Act 290 of 1914, p. 289.****TITLE.**

AN ACT providing for a pension and relief fund for officers of the police department in cities of not less than 25,000 nor more than 100,000 inhabitants and creating a Board of Trustees therefor; providing for the pensioning of disabled policemen and the widows or minor children, or widowed mothers of deceased policemen; authorizing the retirement from service and retaining and pensioning members of the Police Department; Providing for the raising of funds from fines collected by Municipal Courts.

**ESTABLISHMENT OF FUND.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That those cities of the State having a population of not less than 25,000 nor more than 100,000 inhabitants, which have a paid police department, shall set aside 10 per cent of all fines collected in and by its municipal courts, which fines have been assessed for the infractions of municipal ordinances, as a fund for the pensioning of disabled and superannuated members of the police department and of the widows and orphans, or dependent mothers of deceased members of the police department, to relieve said members in case of temporary disability.

**BOARD FOR ADMINISTRATION.**

Sec. 2. Be it further enacted, etc., That the Mayor, Chairman of the Police Department Committee of the City Council, the City Comptroller, who shall be Treasurer, and a member of the police department to be selected by the said department by a majority vote thereof, who shall be Secretary, shall constitute and be a Board of Trustees of the Policemen's Pension and Relief Fund. The Mayor shall be President of said Board. In those cities where the officers at the head of the department named above occupy official titles different from those named above, the Board shall be composed of the officers occupying the positions corresponding to those named in this section.

**CONTROL AND MANAGEMENT.**

Sec. 3. Be it further enacted, etc., That the said Board shall have exclusive control and management of the funds mentioned in the first section of this Act, and all money donated, paid or assessed for the relief, or pensioning of disabled, superannuated and retired members of the police department, their widows and minor children, or widowed mothers, and shall assess each member of the police force not to exceed one per centum of the salary of such members, to be deducted and withheld from the monthly pay of each member so assessed, the same to be placed by the Treasurer of said fund to the credit of said fund, subject to the orders of said Board. The Board shall make all necessary rules and regulations for its government, in the discharge of its duties, and shall hear and decide all applications for relief, or pensions under this Act, and its decision on such applications shall be final and conclusive, and not subject to review or reversal except by the Board. The Board shall cause to be kept a record of all its meetings and proceedings.

**SEMI-ANNUAL PAYMENT OF FINES, ETC.**

Sec. 4. Be it further enacted, etc., That the City Comptroller shall semi-annually, before the fifteenth day of January and the fifteenth day of July, each year, pay over to the Policemen's Pension and Relief Fund, ten per centum of the fines collected in and by the municipal court for the infractions and violations of the city ordinances, which have been turned

into the City Treasury, during the half-year preceding such semi-annual settlement and the money so paid over shall, together with the amounts theretofore so paid, and as hereinafter set forth, constitute a fund for the purposes and objects herein set forth.

**FORFEITURES, ETC., GO TO FUND.**

Sec. 5. Be it further enacted, etc. That all the forfeitures and fines imposed from time to time upon any members of the police department force, by way of discipline, shall be paid into the said Pension and Relief Fund.

**REWARDS, ETC., GO TO FUND.**

Sec. 6. Be it further enacted, etc. That all rewards in money, fees, gifts and emoluments that may be paid or given for extraordinary service of the department, or any member thereof (except when allowed to be retained by said member, or given to endow a medal or other permanent reward), shall be paid into said Pension and Relief Fund. The said Board of Trustees may receive property of any character for the benefit of said Pension and Relief Fund; provided that the sum of fifty thousand dollars (\$50,000.00), which may be received and accumulated, from whatever sources, shall be retained as a permanent fund and thereupon and thereafter the annual income may be made available for the use and purposes of such Pension and Relief Fund.

**INVESTMENT OF FUNDS.**

Sec. 7. Be it further enacted, etc. That the said Board of Trustees shall have power to draw such sums from its Treasury, to invest such sums in the name of the Board of Trustees of the Policemen's Pension and Relief Fund, in interest-bearing bonds of United States, of the State of Louisiana, and of the City in which such Board is located. All such securities shall be deposited with the Treasurer of the Board of Trustees of the Pension and Relief Fund, and shall be subject to the orders of said Board.

**DISPOSITION OF INTEREST.**

Sec. 8. Be it further enacted, etc., That the interest received from such investments of said sums, after said fund shall have reached the sum of fifty thousand dollars (\$50,000.00) shall be applicable to the payment of pensions and relief under this Act, and when such funds shall have reached the sum of fifty thousand dollars (\$50,000.00), the said ten per centum of the fines assessed and paid into the Treasury of the city as hereinabove set forth, shall no longer be paid over to the Policemen's Pension and Relief Fund.

**WARRANTS ON FUND.**

Sec. 9. Be it further enacted, etc., That all moneys paid from said Pension and Relief Fund shall be paid by the Treasurer only upon warrants signed by the President and countersigned by the Secretary thereof. No warrant shall be drawn except by order of the Board, duly entered upon the records and proceedings of the Board. Any interest accruing from the funds while on deposit or otherwise, shall constitute a part of said fund.

**RETIREMENT ON HALF PAY.**

Sec. 10. Be it further enacted, etc. That if any member of the police department of said city, while in the performance of his duty, shall become physically or mentally, permanently disabled by reason of said service, and this fact shall be certified to by the department physician, the Board of Trustees shall retire such disabled member from service upon half pay, which is to be one-half of the monthly compensation received by said officer at the time of his retirement; provided that such retirement on half pay shall not be allowed unless such member has contracted his disability while in the service of the department.

**DEATH BENEFITS.**

Sec. 11. Be it further enacted, etc., That if any member of said department shall, while in the performance of his duty, be killed or die as a result of injuries received in the performance of his duty, or shall die of disease contracted by reason of his occupation, or shall die from natural causes while in said service and shall leave a widow or child, or children under the age of fourteen years surviving, said Board of Trustees shall direct the payment from said Pension and Relief Fund monthly to such widow, while unmarried, of fifteen dollars, and for each child until it reaches the age of fourteen, six dollars; should he leave no widow or children, but a widowed mother, dependent upon him for support, the said Board shall pay her the sum of fifteen dollars monthly as long as she remains unmarried.

**AMOUNT OF PAYMENTS.**

Sec. 12. Be it further enacted, etc., That if at any time there should not be sufficient money in said fund, to pay each person the full amount to which he or she shall be entitled, the beneficiaries shall be paid by prorating the funds available amongst them.

**BOARD HAS POWER TO RETIRE OFFICERS.**

Sec. 13. Be it further enacted, etc., That the Board of Trustees, by the majority vote of the members, and with the approval of the department physician, shall have the power to retire from service in the department any member thereof who has become disabled while in the actual performance of his duties, or any member who has performed faithful service in the department for a period of not less than twenty consecutive years and shall in such case place the member so retired upon the pension roll. Any member may be placed on the pension roll, when it shall be certified to the Board of Trustees in writing, by the department physician, that such member is permanently disabled or incapacitated, either mentally or physically, from performance of his duties as a member of said police department. In case of total disability caused or induced by the actual performance of his duties, the amount of actual pension shall be two-thirds of the annual compensation allowed to the men of the grade in which such member served. The pension of members of the permanent force, who have served twenty years, shall be the amount, not exceeding one-half of the annual salary or compensation of the office from which said members are retired.

**LIST OF RETIRED POLICEMEN.**

Sec. 14. Be it further enacted, etc., That there shall be kept in the office of the Board of Trustees by the Secretary, a book, to be known as the list of retired policemen. This book shall give a full and complete history and record of the action of the Board of Trustees, in retiring any and all persons under this Act, such records shall give name, date of joining the department, date of retirement and the reason thereof, of any and all persons retired. When entitled to a pension, as provided by this Act, such widow or children, or widowed mother shall make application to the Board through the Secretary on a form to be provided by the Board. Accompanying such application, shall be proof of the marriage of the deceased to the widow claimant. Proof of the birth of children shall be shown by the baptismal or the Board of Health certificate. All applications and proof shall be retained in the custody of the Board, due notice of such action shall be registered by the Secretary in his office as pensioners of the police department of the Policemen's Pension and Relief Fund.

**DEPOSIT OF FUNDS IN BANK.**

Sec. 15. Be it further enacted, etc., That the Board shall deposit all moneys in the bank selected as the fiscal agent of the city in which it is located; provided said moneys draw the same rate of interest as the city received on its deposits, otherwise the Board shall make its own selection of a bank.

**REPORT TO CITY COUNCIL.**

**Sec. 16.** Be it further enacted, etc., That the Board of Trustees shall report to the Council of the city, the condition of said Pension Fund on the first day of January of each year.

**FUND NOT SUBJECT TO SEIZURE, ETC.**

**Sec. 17.** Be it further enacted, etc., That no portion of said Pension and Relief Fund shall, at any time be subject to seizure or to be levied on under any process whatsoever for the payment of any claim or debt held against any disabled member or the widow or widowed mother or children of a deceased or retired member; but the said fund shall be sacredly held and distributed for the purpose of pensioning the persons named in this Act and from no other person or purpose whatsoever.

**TREASURER IS CUSTODIAN.**

**Sec. 18.** Be it further enacted, etc., That the Treasurer shall be the custodian of said Pension Fund, and shall keep his books and accounts concerning said fund in such manner as may as prescribed by the Board; said books and accounts shall be subject to the inspection of any member of the Board. The Treasurer shall within ten days after his selection, execute a bond to the Board of Trustees, with good and sufficient sureties, in such penal sum as the Board shall direct, conditioned for the faithful performance of the duties of his office; and that on the expiration or retirement of his term of office he will surrender and deliver to his successor all unexpended moneys and all property which may have come into his hands as Treasurer of said fund. Such bond shall be filed in the office of the Board of Trustees and in case of a breach of same, suit may be brought on said bond in the name of said Board, or in the name of any person or persons injured by said breach.

**FUNERAL EXPENSES.**

**Sec. 19.** Be it further enacted, etc., That whenever an active or retired policeman shall die, or be killed, the Board of Trustees shall appropriate from the fund the sum of one hundred dollars (\$100.00), or as much thereof as may be necessary to pay the funeral expenses of said decedent.

**BENEFICIARIES.**

**Sec. 20.** Be it further enacted, etc., That every member of the department must file with the Secretary the name or names to whom death benefits are to be paid and relations of the donor to the donee existing.

**WHEN ACT BECOMES EFFECTIVE, ETC.**

**Sec. 21.** Be it further enacted, etc., That this Act shall take effect from and after its promulgation; provided that no pensions shall be paid or money drawn from said fund for any purpose until the sum of twenty-five hundred dollars (\$2,500.00) shall be to its credit.

**SHERIFFS, ETC., AS TOWN MARSHALS.**

**Act 212 of 1918, p. 394.**

**TITLE.**

AN ACT to authorize sheriffs, deputy sheriffs and constables to perform for and on behalf of the municipal authorities of all incorporated villages in this State, all the duties incumbent on the marshals of such villages when the office of marshal shall become vacant by death, resignation or otherwise, or when such marshal is absent; and fixing the fees and compensation of such sheriffs, deputy sheriffs and constables when performing the duties of a village marshal; and authorizing the mayor of such villages to designate other persons than sheriffs, deputy sheriffs and constables to discharge and perform the duties of marshal when the office of marshal becomes vacant by death, resignation or otherwise or when the marshal is absent; and fixing the fees and compensation of such designated persons.

**WHEN SHERIFFS MAY ACT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana that whenever the office of marshal of any incorporated village in this State shall become vacant by death, resignation or otherwise, and until his successor shall have been elected or appointed and qualified, or whenever the marshal of any incorporated village in this State shall be absent therefrom, it shall be lawful for any sheriff, deputy sheriff or constable of the parish or ward in which such incorporated village is situated, to discharge and perform all the duties incumbent on the marshal of such village until such time as a new marshal may be elected or appointed, or until the absent marshal shall have returned.

**COMPENSATION OF ACTING OFFICER.**

Sec. 2. Be it further enacted, etc., That whenever any sheriff, deputy sheriff or constable shall perform the duties of the marshal of any incorporated village in this State, he shall be entitled to demand and receive the same fees and compensation that are allowed by law to the marshal of such incorporated village.

**APPOINTMENT OF MARSHAL TO FILL VACANCIES.**

Sec. 3. Be it further enacted, etc., That whenever the office of marshal of any incorporated village in this State shall become vacant by death, resignation or otherwise, and until his successor shall have been elected or appointed and qualified, or whenever the marshal of such village shall be absent therefrom, the mayor of such village shall have authority to designate or appoint any male citizen of such village, above the age of twenty-one years to discharge and perform the duties incumbent on the marshal of such village until a new marshal shall have been elected or appointed and qualified, or until the absent marshal shall have returned.

**COMPENSATION OF APPOINTEE.**

Sec. 4. Be it further enacted, etc., That whenever any person shall have been designated by the mayor of any incorporated village in this State, as provided for in Section three of this act, to perform the duties incumbent on the marshal of such village, the person performing such duties shall be entitled to demand and receive the same fees and compensation that are fixed, or allowed by law to the marshal of such incorporated village.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That this act shall take effect from and after its promulgation.

**MUNICIPALITY TO MAINTAIN EMPLOYMENT BUREAU.****Act 307 of 1914, p. 632.****TITLE.**

AN ACT authorizing any city to establish and maintain a free employment bureau, without giving bond or paying a license therefor.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That municipalities are hereby authorized and empowered, by ordinance of the Council, to establish and maintain a free employment bureau, and no bond shall be required in connection therewith, nor shall any license whatever, or taxes of any kind, be assessed or levied against such agency.

Sec. 2. Be it further enacted, etc., That no fees, of any nature whatever, be required for any purpose, by such municipal employment bureau.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be, and the same are, hereby repealed.

**APPEALS FROM COURTS OF MAYORS AND RECORDERS.****Act 27 of 1900, p. 32.****TITLE.**

**AN ACT** to provide for appeals from the Courts of Mayors and Recorders and City Courts, the Parish of Orleans excepted.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all cases where a person desires an appeal from the Courts of Mayors or Recorders and City Courts, the parish of Orleans excepted, such persons shall, within three full legal days from the day he is sentenced, move for the same, either in writing or orally, returnable to the District Court, and shall, during said delay, in order to perfect said appeal, furnish security for fine and costs of court.

Sec. 2. Be it further enacted, etc., That when said appeal has been moved for and the necessary security furnished within said delay; Mayor, Recorder or City Judge shall at once make a transcript of the proceedings in the case, which transcript shall, before the expiration of ten full legal days from the date of said sentence, be filed by the appellant, in the court to which the appeal is returnable.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

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**NAMES.****CHANGE BY INDIVIDUALS—PROCEEDINGS.****Act 106, E. S. 1877, p. 178.****TITLE.**

**AN ACT** to provide for the change of names by judicial proceedings, to point out the manner of proceeding, and to provide for the payment of costs thereof.

**PETITION—COURT—MINORS.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That whenever any person over the age of twenty-one years shall be desirous of changing his or her name he or she shall present a petition to the parish judge of the parish of his or her residence, and if a resident of the Parish of Orleans to the Judge of the Third District Court for the parish of Orleans, setting forth the reasons for the desired change, and if the person desiring such change be a minor the petition shall be signed by the father and mother of said minor, or by the survivor in case one of them be dead, and in case the minor have no father or mother living the petition shall be signed by the tutor or tutrix of said minor, and in default of any tutor or tutrix by a special tutor appointed by the judge for that purpose.

**PROCEEDINGS CONTRADICTORILY WITH DISTRICT ATTORNEY.**

Sec. 2. Be it further enacted, etc., That the proceedings shall be carried on contradictorily with the district attorney or district attorney pro tem, of the parish in which the application is made, who shall represent the State, and who shall be served with a copy of the petition and citation to answer the same.

**TRIAL IN OPEN COURT OR CHAMBERS.**

Sec. 3. Be it further enacted, etc., That the judge to whom the application is made may either in open court or in chambers proceed to hear and

determine the case and render such judgment as the nature of the relief and the law and the evidence shall justify.

#### JUDGMENT.

Sec. 4. Be it further enacted, etc., That in case the prayer of the applicant may be granted judgment shall be rendered granting the change of name desired, which shall be the true and lawful name of the party asking the change after the publication of the judgment in some newspaper in the parish for fifteen days, and if there is no newspaper published in the parish then in some newspaper nearest to the courthouse of the parish in which the judgment is rendered.

#### APPLICANT PAYS COSTS.

Sec. 5. Be it further enacted, etc., That the applicant shall in all cases pay the costs of the proceedings, and that a fee of ten dollars be taxed as part of the costs in favor of the district attorney pro tem, and that this act shall take effect from and after its passage.

### CHANGE OF NAME BY CHURCH.

Act 65 of 1888, p. 72.

#### TITLE.

AN ACT to authorize any church, congregation, or religious or charitable organization, incorporated by special act of the General Assembly of Louisiana, or territory of Orleans, to change or amend its name, to change the numbers of and time and manner of choosing its officers, directors, trustees, vestrymen, wardens and employees, to determine the number or proportion of its directors, trustees or vestrymen necessary to constitute a quorum, and to give them authority to make and alter the by-laws and regulations of the corporation; and to fix, determine and declare the powers, duties and privileges of the president, rector, pastor or other person at the head of such corporation, and to change and alter its charter; and to prescribe the method of effecting such changes and alterations.

#### CHANGE OF NAME, OFFICERS, ETC., BY CHURCH.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be lawful for any church, congregation, or religious or charitable organization, incorporated by special act of the General Assembly of the State of Louisiana, or Territory of Orleans, to change, alter or amend its name, to change the number of officers, directors, trustees, vestrymen, wardens and employees designated in its charter; to change the time and manner of choosing such officers, directors, trustees, vestrymen, wardens or employees, to determine the number or proportion of such directors, trustees or vestrymen necessary to constitute a quorum for the transaction of business, and to give them authority to make and alter by-laws and regulations for the government of the corporation; to change, fix, determine and declare the powers, duties and privileges of the president, rector, pastor, or other person at the head of such corporation, and in general to make any change or alteration in its charter not in conflict with the Constitution and laws of the State of Louisiana, provided such changes or alterations may be made in the manner and under the terms and conditions set forth in this act.

#### NUMBER NECESSARY.

Sec. 2. Be it further enacted, etc., That whenever one-fourth or more of the members of any such organization or corporation shall desire to change the name thereof, or to make any change or alteration as mentioned above, or to change, alter or amend the charter of said corporation, they shall prepare a written or printed statement, embodying the changes and alterations, which they desire to make, and shall cause a copy of such statement to be posted in the meeting house or meeting room of said church, congregation or corporation, together with a notice calling upon the

members thereof to assemble in said house or room, at a time to be fixed in said notice, for the purpose of considering and acting upon said proposed changes, amendments and alterations; that this statement and notice shall be posted at least thirty days prior to the date fixed in said notice, and shall remain posted until the time named therein, and attention shall be called thereto by the officer presiding at one or more meetings during the period that said notice remains posted; that at the time fixed in said notice the members of such church, congregation or corporation shall assemble in said room, or house, to act upon said proposed changes or amendments; that such members shall be entitled to act at said meeting in person or by proxy, and the vote shall be taken on each proposed change or amendment separately; that any proposed change or amendment which shall fail to receive the affirmative votes of two-thirds of the members present or represented, shall be considered as rejected; that all such proposed changes and amendments as may receive the affirmative votes of two-thirds or more of the members present and represented shall be submitted to the district attorney of the parish, in which the said church, congregation or corporation is domiciled, for examination as to their legality; that should said district attorney be of opinion that the changes and alterations, as proposed, are legal, and that none of the provisions therein contained are contrary to law, he shall endorse his opinion to that effect thereon, two of the officers of said congregation or corporation shall, by act before a Notary Public, under oath, make a full statement and declaration, showing all the acts and doings of such church, congregation or corporation in the premises, containing a copy of the endorsement of the district attorney and concluding with a copy of the charter of such corporation as amended; That said act shall be recorded in the office of the parish recorder, or other officer performing the duty of parish recorder, and that when such record has been made, the amended charter, as contained in said act, shall constitute and shall be taken and deemed as the charter of said corporation.

#### CERTIFICATE OF DISTRICT ATTORNEY.

Sec. 3. Be it further enacted, etc., That in case the district attorney shall neglect or refuse to give the certificate required by the foregoing section the representatives of said corporation may take a rule upon him in the district court of the parish in which such corporation has its domicile, to show cause within ten days from the service thereof why the charter of such corporation should not be amended as proposed. Should the district judge be of opinion that the proposed amendments are legal, he shall give judgment accordingly, and in lieu of the certificate of the district attorney a copy of said judgment shall be set forth in the act to be passed and recorded as provided in the foregoing section.

#### REPEALING CLAUSE.

Sec. 4. Be it further enacted, etc., That all laws and parts of laws in conflict with the provisions of this Act be and are hereby repealed.

### FRAUDULENT USE OF ANOTHER'S NAME.

#### Act 119 of 1888, p. 182.

##### TITLE.

AN ACT to prevent the fraudulent use of the name of a person not interested in a business or profession being carried on, and to declare the same a crime and fix the punishment thereof.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person or persons engaged in any occupation to make fraudulent use of the name of any person not having an interest therein, or to do business under the name of any person or persons not having an interest therein.

Sec. 2. Be it further enacted, etc., That any person or persons offending against the provisions of the foregoing section, shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by fine or imprisonment, or both, at the discretion of the court.

## NATURAL RESOURCES.

### ESTABLISHMENT OF DEPARTMENT OF CONSERVATION.

Act 127 of 1912, p. 151.

#### TITLE.

AN ACT to create and establish a Department of Conservation, defining its duties and powers and constituting it a department of the Government to provide for necessary employees and defining their qualifications, duties and powers in relation to the protection of birds, fish, shell fish and wild quadrupeds; forestry and mineral resources of the State; to provide for the payment of the salaries and expenses of the said Commission, to issue licenses and levy and collect the charges thereon, and to provide for the revenues to maintain and support the same; to provide for the establishment of public and private preserves and propagating grounds for game and fish; to authorize the Conservation Commission herein created to discharge the duties and functions heretofore exercised by the Board of Commissioners for the protection of birds, game and fish, and the Conservation Commission heretofore created, and the duties heretofore assigned to the Department of Forestry and the Department of Mining and Minerals; to authorize said commission to represent the aforesaid other commission either as defendant or plaintiff in any litigation that be pending; to provide penalties for the violation of this act, and to repeal all laws or parts of laws in conflict with or inconsistent with the provisions of this act.

#### CREATION OF DEPARTMENT—APPOINTMENT OF COMMISSIONER.

Section 1. (As amended by Act 105, 1918). Be it enacted by the General Assembly of the State of Louisiana, "That the 'Department of Conservation' is hereby created. It shall be directed and controlled by an officer to be known as 'Commissioner of Conservation'. The Commissioner shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of four years, and he shall be informed, in whole or in part, on the subject of wild life, game and fish and the requirements for their conservation, oysters, salt and fresh water fish of the State, and the forestry and mineral resources of the State. The said Commissioner shall be subject to removal by the Governor. He shall have supervision and control over all employees in every branch of the service, and shall give his entire time to the service. He shall receive a salary of Four Thousand Dollars (\$4,000.00) per annum, payable monthly and shall receive such expenses as are necessary when engaged in the discharge of his official duties. He shall have authority to pay the expenses of its employees, either within or without the state, while in the service of the department, but such expenditures and his salary shall never exceed the amount of the revenues available for the use of said department; and provided there shall not be any attorney other than the Attorney General paid to represent the said department; that the Commissioner herein provided for shall fully represent the Department of Conservation and discharge all the obligations and duties heretofore devolving upon the three members of the Conservation Commission; it being the intent and purpose of this Act to reduce the Commission to one head who shall have full charge of all the affairs properly coming within its supervision; and to place in said Department of Conservation all the duties, authority, power, privilege and jurisdiction of the Conservation Commission."

#### DUTIES OF DEPARTMENT.

Sec. 2. Be it further enacted, etc., That the Conservation Commission of Louisiana is hereby constituted a department of the State Government for the purpose of the protection, management, and conservation of the oyster fields and water bottoms of the State; to protect the birds, fish, shell fish and wild quadrupeds of the State, and the natural and mineral

and forestry resources of the State and to see that all laws relative thereto are enforced, and, as such, it is hereby created a body politic or political corporation invested with all powers inherent in such corporations.

It shall have authority to sue and be sued under the style "Conservation Commission of Louisiana," and all processes against said corporation shall be served on the president, or in his absence on any member of the said Conservation Commission, at the general office and all suits in its behalf shall be brought by its president in the name of the Commission. In case there are any suits pending in which the game, fish and oyster commission or the Conservation Commission heretofore created are parties to said suit either as plaintiff or defendant the present Conservation Commission created by this act shall be substituted and become parties to said litigation in lieu of the former commission, which shall be superseded by the present one. The domicile of said corporation is hereby fixed in the City of New Orleans, where the office shall be established, and where its archives shall be kept, and services of process shall be made upon the president or other member of the Commission in person.

It shall be the duty of said commission to collect, classify and reserve such statistics, data and information, as will tend to promote the object of this act and to take charge of and keep all records, books and papers and documents which shall in the discharge of their duties hereunder come in their possession or under their control; to make and execute all contracts, and generally to do and perform all things necessary to carry out the objects of this act subject to all limitations and duties herein provided.

Said Commission shall adopt by-laws for its own government and the government of its employees; it shall adopt rules and regulations for comprehensive control of birds, fish, shell fish, and wild quadrupeds, and mineral and soil and natural resources of the State which said by-laws or rules and regulations shall not be inconsistent with or contrary to the provisions of this act.

Any person who feels aggrieved by any such rule or regulations shall have the right to test the legality of the same in the courts of the State, either of the Court of the jurisdiction wherein the contest arises, or at the domicile of the Commission.

It shall be the duty of the Commissioners, at each regular meeting to examine all accounts and operations of the Commission and determine what work shall be undertaken; and monthly reports thereof shall be made in writing to the Governor, and condensed quarterly copies of said monthly reports shall be printed in one morning paper in the City of New Orleans. Said Commission shall improve, enlarge and protect the natural oyster reefs of this State as conditions may warrant subject to the provisions stipulated in this act and other laws not herein repealed, provided they shall not lease any of the natural reefs of the State. It shall also protect and propagate, when possible, all species of birds and game of whatever description and establish preserves and hatcheries, to be maintained and operated under the control of the Commission, and it shall be the duty to rigidly enforce all laws relative to the bedding, fishing, selling, shipping and canning of oysters and of all laws relative to the protection and propagation and selling of birds and game and of all laws relative to the protection and propagation and sale of all species of fish in this State, whether they shall be salt water or fresh water fish, whether they shall be shell fish or fish of any other description, and of all laws relative to diamond-back terrapin, shrimp, and, in fact, shall have full power and control over birds and animals, whether they be game or fur-bearing or not; over all fish, whether they shall be salt water or fresh water fish; over diamond-back terrapin, shrimp and oysters of this State found or being within the borders of this State, or within any of the waters of the State, whether said waters be rivers, lakes, bayous, lagoons, bays or gulfs. It shall, likewise, enforce all laws relating to the natural mineral and forestry resources of this State. It shall assist in protecting all lessees of private oyster bedding grounds in the enjoyment of their rights, and shall assist in the protection of private fish ponds used by individuals to propagate fish, and to protect game preserves placed under the control of the State, provided they are

used for the propagation of birds and game, or as resting places for game or birds, and to see that said preserves are properly posted according to law. And said Commission shall in every way possible assist in developing the natural resources of the State under its jurisdiction to their fullest proportions.

**TO REPORT ALL VIOLATIONS.**

Sec. 3. Be it further enacted, etc., That this Commission shall have power and authority, in its name, to initiate and prosecute all civil actions or proceedings arising from the violation of any law, the administration of which is imposed upon it. And it shall also be the duty of said Commission to report all violations of the criminal laws with the enforcement of which it is charged to the District Attorney within whose jurisdiction such infractions occur, and see that such cases so reported are promptly prosecuted and it shall be the duty of the District Attorney to prosecute all such actions and make report of such prosecutions to the Commission. This obligation shall be mandatory on the District Attorney.

**REPORTS TO GENERAL ASSEMBLY.**

Sec. 4. Be it further enacted, etc., That it shall be the duty of said Commission, on or before the first Monday in April of each year, to prepare and present to the Governor of the State, a printed annual report showing the operations of the Commission since the date of its last annual report, showing the amount of money received by it and from what sources, the amount of money expended by it and for what purposes, and in each annual report immediately preceding the regular session of the General Assembly, the Commission shall include an estimate of proposed expenditures and expenses for the ensuing two years; and its prospective revenues and such recommendations for legislative action if any the Commission may deem wise for the better accomplishment of the purposes of this act. The Governor shall lay copies of said report before the General Assembly convening after their receipt, and at each regular session the General Assembly shall appropriate such funds as it may deem wise, for the continuation of the work of said Commission. A fund to be known as the "Conservation Fund" is hereby established and all funds collected by the Conservation Commission as herein provided for shall be paid in the State Treasury to the credit of said fund, a record of said payments being made by the State Treasury to the credit of said fund, a record of said payments being made by the State Auditor, and acknowledgment hereof sent to the Conservation Commission, that all expenditures shall be made out of the said fund by the warrant of the said Conservation Commission drawn on the State Auditor, which warrant shall be signed by the President of the Conservation Commission, and countersigned by its Secretary and said State Auditor shall, in turn, issue his warrant in payment thereof on the State Treasury, said Conservation Commission shall keep a set of books showing from whom every dollar is received and for what purpose; to whom every dollar is paid and for what purpose; and shall keep in its file vouchers or receipts for all moneys paid out. Any surplus funds existing after the current annual expenses are provided for may be used for the purpose of game, oyster and fish propagating and conservation.

**BONDS AND PROPERTY.**

Sec. 5. Be it further enacted, etc., That each one of said Commissioners shall give for the faithful performance of the duties of his office a bond in favor of the Governor of the State for the benefit of the people of the State in the sum of Five Thousand Dollars (\$5,000.00) and each employee of the said Conservation Commission other than the Commissioners, shall give a similar bond for the faithful performance of their duties in the sum of one thousand dollars (\$1,000.00). In case of forfeiture of any of said bonds and recovery on same, the amount recovered shall go to the general fund of the Commission.

Sec. 6. Be it further enacted, etc., That all moneys, machinery and other property of whatever kind now owned or controlled by the Board of Commissioners for the protection of birds, game and fish of the State of

Louisiana, is hereby declared to be the property of the State of Louisiana, and is hereby transferred to the control of the Conservation Commission of Louisiana and the said Conservation Commission of Louisiana is hereby required to assume and pay all valid bills and debts owing by the Board of Commissioners for the Protection of Birds, Fish and Game and to discharge the duties heretofore discharged by said Board and not otherwise provided for herein, and to prosecute and carry on all actions heretofore commenced by said board, and to enforce all laws, the duty of enforcing which devolves upon said Board of Commissioners for the Protection of Birds, Game and Fish.

#### **EMPLOYEES WITHOUT RIGHT TO EXPLOIT NATURAL RESOURCES.**

Sec. 7. Be it further enacted, etc., That the Conservation Commission shall permit no salaried officer or employee to be actively interested in the exploiting for personal gain of any of the natural resources of the State, or to be employed by any person, firm or corporation engaged in the exploiting of any of the natural resources of the State, under the penalty of dismissal from the service hereof and forfeiture of any rights sought to be acquired by said officer or employees.

Sec. 8. (As amended by Act 105, 1918). Be it further enacted, etc., "That the Commissioner of Conservation shall require such boats and other movable property as may be necessary to regulate and supervise the work of the said Department of Conservation, and shall establish suitable armed patrols on the waters of the State or on the land, to prevent the violation of any of the conservation laws of the State relating to birds, wild quadrupeds, and other game, fish, shell fish, oysters, forests, mines and minerals, and waterbottoms; and shall have the power to appoint competent men throughout the State to be known as 'Conservation Agents,' with the authority to carry arms concealed while in the performance of their duties, who shall have full power under the law to enforce all laws for the protection of the natural resources of the State."

#### **DUTY OF COMMISSION TO EXACT LICENSE.**

Sec. 9. (As amended by Act 45, 1916, p. 125). Be it further enacted, etc., That it shall be the duty of the said Conservation agents to see that every person hunting, trapping, seining, shipping or dealing in any way in any of the natural resources of this State in the territory assigned to each agent for which a license must be obtained as hereinafter provided has in his possession, or is the owner of an official license as provided by law, except in case of a resident hunting on his own lands or lands leased for agricultural purposes.

#### **RIGHT OF SEARCH.**

Sec. 10. (As amended by Act 105, 1918). Be it further enacted, etc., "That the said Department of Conservation, through its officers, inspectors and agents shall have full power to search or examine any cold storage warehouse, boat, store, car, conveyance, vehicle, fish basket, or other receptacle for birds, fish, shell fish, game or wild quadrupeds, when they shall have good cause to believe that any law for the protection of birds, fish, shell fish, game, or wild quadrupeds has been violated; that they shall enforce all laws for the protection of the other natural resources of the state, and it shall be and is hereby made their duty to arrest and immediately make affidavit against the suspected violators."

#### **SPECIAL AGENTS.**

Sec. 11. Be it further enacted, etc., That the Conservation Commission shall have power to appoint competent men throughout the State to be known as "Special Conservation Agents," who shall possess all rights and power given by the law to the regular Conservation Agent except the right to search without warrants, and they shall be subject to all requirements and regulations both of the law and the rules of the Conservation Commission, provided that such special Conservation Agent shall be in no way entitled to recompense from either parish, or State or Commission for services rendered or expenses incurred in the performance of their duty. All

sheriffs, constables and peace officers shall have the power as Conservation Agent under this section except the right to search without warrant, and shall receive one-half of all fines collected for violation of the Game and Conservation laws of this State that may be reported by them.

**REGULATION OF RECEIPTS AND EXPENDITURES.**

Sec. 12. Be it further enacted, etc., That all salaries and other expenses of said Conservation Commission are to be paid by warrant of the Conservation Commission of Louisiana drawn on the State Auditor, which warrant shall be signed by the President of the Conservation Commission and countersigned by its Secretary, and the State Auditor shall, as herein-before provided, issue his warrant on the State Treasurer in payment thereof, said payment to be made from the funds collected by the sale of hunting licenses, or forfeiture of bonds and from all money which may be appropriated by the General Assembly for the use of the Conservation Commission and from all revenues derived from oysters and shrimp licenses and tax, or licenses for the trapping of fur-bearing animals and licenses on fish seines, boats, diamond-back terrapin, and from other sources. All fines derived from convictions of the violations of the Conservation laws of this State, except as may be herein otherwise provided less the sheriff's per cent. for the collection provided by law, shall be paid to the treasurer of the school funds for the use of the public schools in the parish in which the violation occurred.

**ISSUANCE OF HUNTING AND TRAPPING LICENSES.**

Sec. 13. (As amended by Act 45, 1916, p. 125). Be it further enacted, etc., That the Conservation Commission of the State of Louisiana, shall send to the tax collector of each parish of the State, a book or books containing a regularly numbered series of official hunting and trapping licenses bearing the facsimile signature of the President of the Commission, which license shall be issued by the said tax collectors to all persons applying for same at the rate of one dollar for all residents; fifteen dollars for all non-residents, and unnaturalized foreign-born residents, except those unnaturalized foreign-born residents hunting on their own land, and ten dollars for persons who hunt for profit and are commonly known as "market hunters," except that non-residents or unnaturalized foreign-born residents shall not be permitted to hunt or trap for profit. On the first of each month, the tax collector shall make return to the Treasurer of the State of Louisiana in cash accompanied by a proper report of all licenses that have been issued, less five per cent. of the sum collected, which amount is to be deducted in full payment of their services in issuing said licenses and, at the same time, said tax collectors must forward to the Conservation Commission duplicates of such reports. The Conservation Commission shall deposit with the State Treasurer all funds and moneys as received from the tax collector and proper records of said deposits shall be entered on their books covered by receipts or vouchers of the State Treasury.

Be it further enacted, etc., That all laws or parts of laws inconsistent with or contrary to the provisions of this Act, be and the same are hereby repealed.

Note. Defendant was charged on information as one engaged in "hunting for profit," commonly known as a "market hunter" without having previously obtained a license. From a conviction and fine of \$25, he appealed to the Supreme Court. The appeal was dismissed as the court was without jurisdiction to entertain it. State vs. King, 133 L. 568.

**LICENSE A COMPULSORY REQUIREMENT.**

Sec. 14. Be it further enacted, etc., That no person shall at any time hunt, pursue, or kill with a gun any of the wild quadrupeds or birds that are protected during any part of the year, or take with traps or other devices without first having procured a license to do so, and then only during the respective periods of the year when it shall be lawful.

Note. One who traps wild quadrupeds or game in violation of this section without a license is subject to the penalties imposed by the act, though he was a "market hunter" trapping on his own lands. (The entire act and its scope, etc., is considered at length in an original opinion and on rehearing.) State vs. Morgan, 133 L. 1033.

**DEEDING OF LANDS TO COMMISSION.**

Sec. 15. Be it further enacted, etc., That the Conservation Commission is hereby empowered to accept from any person, firm, corporation, State or Federal Government, any lands or waters suitable for game and fish preserves and to provide such rules and regulations, not contrary to law, for the conservation of the birds, game and fish found thereon.

**OYSTER SURVEYOR.**

Sec. 16. Be it further enacted, etc., That the Conservation Commission shall employ at a salary not to exceed eighteen hundred dollars per year and traveling expenses necessarily incurred by him in the discharge of his official duties, not to exceed seven hundred dollars per year, a surveyor, whose duty it shall be to mark the boundaries of all oyster bottoms leased by the State to private individuals.

**RULES AND REGULATIONS.**

Sec. 17. Be it further enacted, etc., That the Commission may adopt all needful rules and regulations necessary for a proper and intelligent administration and enforcement of the State laws relating to fish, game and wild quadrupeds.

**PARAPHERNALIA AS EVIDENCE.**

Sec. 18. Be it further enacted, etc., That in all cases of arrest for violation of the game and fish laws of the State the possession of the game, fish, or nets or seines, or lines, or the possession or operation of any other device herein prohibited, shall be *prima facie* evidence of the violation of this act.

**FISHERY RIGHTS OF COMMISSION.**

Sec. 19. Be it further enacted, etc., That the Conservation Commission may take fish of any kind, when, where, and in such manner as may be necessary for the purpose of science and of cultivation and distribution, and they may grant written permits to other persons for the same purpose, and may introduce or permit to be introduced any kind of fish into any waters. They may, after a hearing, set apart for a term not exceeding ten years, any waters in the State for the purpose of propagating, or for the use of the United States Bureau of Fisheries. The order setting apart such waters shall be recorded in the registry of deeds of the parish in which they are situated. They may erect and maintain such fixtures as are necessary for the purpose of propagating and maintenance.

**ACT OF TRESPASS ON PRESERVES.**

Sec. 20. Be it further enacted, etc., That it shall be unlawful for any person to wilfully enter in or upon any building or other structure or any area of land or water, set apart and used by or under the authority of the Conservation Commission for conducting scientific experiments and distribution of fish, birds, or game after said Commission has printed notices of such occupation and use and the purposes thereof, to be placed in a conspicuous position adjacent to any such areas of land or water or upon any such building or other structure, or to wilfully and maliciously injure or deface any such building, or other structure or any other notice posted as aforesaid, or injure or destroy any property used in such experiments or investigation or otherwise interfere therewith.

**FISH HATCHERY RIGHTS OF COMMISSION.**

Sec. 21. Be it further enacted, etc., That the Conservation Commission may purchase from persons, firms or corporations, fish roe or fish eggs, giving in exchange or in consideration thereof a per centum of the young fish hatched or produced at any of the fish hatcheries of the State for the eggs so purchased; and the placing of such young fish in waters on the land of such persons, firms or corporations shall not be deemed a stocking of such waters with fish by the State.

**INTRODUCTION OF FISH AND ANIMALS PROHIBITED.**

Sec. 22. Be it further enacted, etc., That no wild animals or fowl or spawn or fish of any species from without the State shall be liberated within the State except upon written permission of the Conservation Commission.

**STOCKING WATERS WITH FISH.**

Sec. 23. Be it further enacted, etc., That the Conservation Commission, upon the petition of the police jury of a parish, may stock the waters of any stream, bayou, lagoon, lake or river, with such fish as they judge to be best suited to such waters. The Commission may thereupon prescribe for a period not exceeding three years, such reasonable regulations relative to the fishing in such streams and tributaries as they deem to be for the public interest, and shall cause such regulations to be enforced.

**SPECIAL CLOSED SEASONS ON FISH.**

Sec. 24. Be it further enacted, etc., That whenever they deem it for the best interest of the State, the Conservation Commission may entirely prohibit the taking of any kind of fresh water fish in any part of the State, for a series of years not exceeding three. They may adopt, and from time to time modify or repeal such needful rules and regulations not contrary to the laws of the State, as they may deem necessary or proper for the protection and preservation of the fish of the State.

**ENFORCEMENT OF GENERAL CONSERVATION LAWS.**

Sec. 25. Be it further enacted, etc., That the Conservation Commission hereby created shall be charged with the duty of carrying out the provisions of Act 189 of 1910, and any other laws on the subject of the oyster industry, in so far as they are not in conflict with the provisions of this Act, and said Conservation Commission shall to that extent discharge the functions heretofore exercised by the Board of Commissioners for the Protecting of Birds, Game and Fish.

**DUTIES OF COMMISSION.**

Sec. 26. Be it further enacted, etc., That the Conservation Commission hereby created shall be charged with the duties of carrying out the provisions of Acts 172 and 196 of 1910, and any other laws on the subject of the conservation of the natural, mineral, soil and forestry resources of this State in so far as they are not in conflict with the provisions of this Act, and the Conservation Commission hereby created shall to that extent discharge the functions heretofore exercised by the Conservation Commission created by Act 172 of 1910.

Sec. 27. Be it further enacted, etc., That the Conservation Commission hereby created shall be charged with the duty of carrying out the provisions of Act No. 261 of 1910, amending and re-enacting Act No. 113 of 1904, and the service of the other officials mentioned in said act are hereby dispensed with, the same being placed under the exclusive control and administration of the Conservation Commission hereby created.

**PENALTIES.**

Sec. 28. Be it further enacted, etc., That any person violating any of the provisions of this Act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or be subject to imprisonment for not less than thirty (30) days, or be liable to both fine and imprisonment in the discretion of the court.

Sec. 29. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be, and the same are hereby repealed.

Note. The "Department of Conservation" established by the foregoing Act, is authorized to discharge the functions heretofore exercised by first the "Board of Commissioners for the protection of birds, game and fish" established by Act 278, 1908, p. 409, and reenacted by Act 265, 1910, p. 436 (Sec. 25); Second. The "Conservation Commission" created by Act 144, 1908, p. 200 and amended and reenacted by

Act 172, 1910, p. 255 (see Sec. 26); Third. It dispenses with the services of "the other officials mentioned" in Act 261, 1910, p. 446 (Sec. 27). In so far therefore, as these acts prescribe the functions of the various officials appointed to execute the acts, the acts are to that extent still in effect. With the exception of Act 261, 1910, they are superseded by later legislation and are not printed in this edition. Act 261, 1910, relating to Forestry is printed infra.

## **RIGHT OF DEPARTMENT TO EXPROPRIATE LANDS, ETC.**

**Act 85 of 1918, p. 126.**

### **TITLE.**

**AN ACT** to authorize the Department of Conservation to expropriate lands wherever it is found necessary so to do in the establishment of State Fish Hatcheries.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Department of Conservation, through its proper officers, shall be, and is hereby authorized to expropriate in the manner, form, and method provided for by existing laws as in ordinary cases of expropriation, any lands lying adjacent to any property belonging to the Department of Conservation, or the State of Louisiana in the possession of the Department, suitable for a State Fish Hatchery; when in the opinion of the said Department of Conservation such property is necessary for the public use as a State Fish Hatchery.

Sec. 2. Be it further enacted, etc., That all laws which are inconsistent or in conflict herewith are repealed.

## **FOREST ADMINISTRATION AND PREVENTION OF FIRES.**

**Act 261 of 1910, p. 446.**

### **TITLE.**

**AN ACT** to amend and re-enact Act No. 113 of the Session of 1904, approved July 4, 1904, entitled "An Act to establish a Department of Forestry; to provide for the preservation of the forests of this State and the suppression and prevention of forest fires; to provide for the re-foresting of denuded forest lands, and for the proper instruction relative to forestry in the schools of this State; to provide penalties for the violation of this Act, and for other purposes; to provide for the appointment of deputy forester by the Governor; to fix the assessed valuation, for a period of from ten to thirty years, of lands which shall be planted in trees; to create a forest reserve fund and to provide for the payment of all fines, forfeiture and penalties arising under the provisions of this Act into said fund.

### **ESTABLISHMENT OF DEPARTMENT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act No. 113 of the Session of 1904, approved July 4, 1904, be amended and re-enacted so as to read as follows:

An Act to establish a Department of Forestry, to provide for its proper administration, to provide for the services of a State forester, to provide for the acceptance of gifts of land by the State forests, and the administration thereof; to provide for the preservation of the forests of the State, and the prevention and suppression of forest fires; to provide penalties for the violation of this Act, and for other purposes.

### **FORESTRY DEPARTMENT.**

Sec. 2. Be it further enacted, etc., That there be and is hereby established a Department of Forestry, to consist of the Registrar of the State Land Office, who shall be a person educated in sylviculture, and who shall be appointed and commissioned by the Governor, on the recommendation of the Conservation Commission, for the period of one year at a time; provided, the ex-officio commissioner of forestry shall receive as compensation

for the performance of duties imposed on him by this act, \$500.00 per annum payable out of any funds of the State not otherwise provided for, on the warrant of the Commissioner of Forestry, and an expense fund of \$300.00 per year, for traveling and incidental expenses; the deputy forester and such assistants as may be provided, to be paid as hereinafter provided for

**DUTIES OF FORESTER.**

Sec. 3. Be it further enacted, etc., That it shall be the duty of the State forester, provided for in Section 1 of this act, under the general supervision of the Conservation Commission to have direction of all forest interests and all matters pertaining to forestry within the jurisdiction of the State, take such action as is authorized by law to prevent and extinguish forest fires, and enforce all laws pertaining to forest woodlands, and prosecute for any violation of such laws. He shall carry on educational work in the State in the interest of forest preservation by means of correspondence, publications and lectures, especially in the schools of the State. It shall be his duty to co-operate with private timber owners in laying plans for the protection, management and replacement of forests and in aiding them to form protective associations. It shall be his duty to examine all timbered lands belonging to the State, and report to the Conservation Commission upon their time or condition and actual value, and also whether some of those lands may not be held as State forest reserves. He shall be responsible for the protection and management of lands donated to or purchased by the State, and of all other lands reserved by the State as State forests. He shall make statistics of forest conditions, of forest resources of the State, the extent of forest injuries, conduct experiments in tree planting and note the effect of forest grazing and turpentining and along other lines of forest work. He shall prepare an annual report of the progress and conditions of the State work in forestry to the Conservation Commission and therein recommend plans for improving the State system of forest protection, management and replacement. Whenever it shall be reported to him that any person or persons engaged in a timber business subject to license tax are operating without license, he shall cause the same to be collected according to law.

**STATE FORESTS.**

Sec. 4. Be it further enacted, etc., That the Governor of the State is hereby authorized to accept gifts of land to the State to be held, protected and administered by the Conservation Commission as State forests and to be used to demonstrate their practical utility for reculture and as breeding places for game. Such gifts must be absolute, except for the reservation of all mineral rights, and in no case shall exceed ten (10) per cent of the area of any parish wherein such lands may be situated. The Attorney General is directed to see that all deeds to the State are properly executed and that the titles thereto are free and clear of all encumbrances before the gift is accepted. When any donation exceeding six hundred acres is made, the name of the donor, or any name he may suggest, on the approval of the Conservation Commission, shall be given such donation, as the designation of such reserve.

**PUNISHMENT FOR CAUSING FOREST FIRES.**

Sec. 5. Be it further enacted, etc., That any person that wilfully or negligently sets on fire or causes to be set on fire any wood, brush or grass land not his own; or sets on fire or causes to be set on fire any land belonging to himself and allows such fire to escape to any wood, brush or grass land not his own; and any person that wilfully suffers any fire set by himself to damage any property of another, is guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$20.00 nor more than \$300.00, or by imprisonment of not less than ten days nor more than six months, or both such fine and imprisonment. Every person that wilfully or maliciously sets on fire any such wood, brush or grass lands, or causes to be set on fire any such wood, brush or grass lands, whereby the

property of another is injured or destroyed, shall upon conviction be punished by a fine of not less than \$25.00 nor more than \$1,000.00 or by imprisonment for a term of not less than three months nor more than five years, or by both such fine and imprisonment. Any person who shall cause a fire in any wood, brush or grass lands by carelessly, negligently, or deliberately dropping a burning match or emptying fire from a pipe, or dropping a lighted cigar or cigarette, or discharging a combustible wad from firearms, or failing to extinguish a camp fire upon leaving it, shall be deemed guilty of setting the forest on fire.

**COMPENSATION FOR DAMAGE FROM FOREST FIRES.**

Sec. 6. Be it further enacted, etc., That nothing in this act shall be construed as affecting the right of action for damages. The liability of persons or corporations for all damages shall include the injury to young growth resulting from fires. The damage to young growth shall be calculated as the expense of artificially planting and cultivating such small growth to the point of development at the time when the fire occurred.

**PREVENTION OF FIRES BY RAILWAYS.**

Sec. 7. Be it further enacted, etc., That it shall be the duty of all railroad companies operating any railroad through forest lands within this State to keep their right of way cleared of all combustible materials and safely dispose of the same within said limits of said right of way between the fifteenth day of November and the fifteenth day of April. No railroad company shall permit its employes to leave a deposit of fire or live coals on its right of way other than between the rails, in the immediate vicinity of woodland or lands liable to be overrun by fires, and when engineers, conductors or trainmen discover that fences or other materials along the right of way, or woodlands adjacent to the railroad, are burning or in danger from fire they shall report the same promptly at the next telegraph station that they pass. In seasons of drought the railroad companies shall give particular instructions to their section foremen for the prevention and prompt extinguishment of fires originating on its right of way, and they shall cause warning placards furnished by the Forest Commissioner to be posted at their stations in the vicinity of the forest lands. Any railroad company wilfully violating the requirement of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding one hundred dollars for each offense, and railroad employees wilfully violating the requirements of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than fifty dollars. But this section shall not be construed to prohibit or prevent any railroad company from piling or keeping upon the right of way cross ties or other material necessary in the operation or maintenance of such railroads.

**ACCOUNTABILITY OF PERSONS CAUSING FIRES.**

Sec. 8. Be it further enacted, etc., That in a prosecution for the wilful and negligent setting fire to forests, when the evidence has been conclusive on the guilt or innocence of the party or parties charged with the crime, it shall be within the discretion of the court to take evidence as to the cost of fighting the fire which the accused is charged with setting and it shall be within the discretion of the court to assess such costs as a part of the penalty of the person or persons charged, if he shall be found guilty.

**DEPUTY FORESTER.**

Section 9. Be it further enacted, etc., That there shall be appointed by the Governor, upon the recommendation of the Conservation Commission, a person practically and theoretically educated in sylvaculture, who shall be Deputy State Forester. His duties shall be as herein prescribed for the State Forester, and he shall be the chief assistant, under the supervision of the State forester, in carrying out the forest policies of the State. He shall receive a salary of \$1,800 per annum, and, under the super-

vision of the State forester, shall have an allowance not exceeding \$600.00 per year for office and traveling expenses, which shall be paid by the State forester from the Conservation fund, established by the law of this State.

**FOREST FIRE WARNING.**

Sec. 10. Be it further enacted, etc., That the State forest warden shall prepare notices, printed in large letters upon cloth or strong paper, calling attention to the destruction caused by fires and to the forest fire laws and the penalties for their violation. Such notices shall be distributed to all forest wardens, parish officials, railroad and lumber companies, private citizens, officers, railroad stations, in public squares, along public highways, and in other places. Any person who shall maliciously or wilfully destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provision of this act shall be guilty of a misdemeanor and punishable upon conviction by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment for a period of not less than ten days nor more than three months, or by both said fine and imprisonment.

**NATIONAL FORESTS.**

Sec. 11. Be it further enacted, etc., That the consent of the State of Louisiana be and is hereby given to the acquisition by the United States by purchase or gift of such land in Louisiana, not exceeding one hundred thousand acres all told, as in the opinion of the Federal Government may be needed for the establishment of a national forest reserve in this region; provided, that the State shall retain a concurrent jurisdiction with the United States in and over such lands in so far that civil process in all cases and such criminal process as may issue under the authority of the State against any person charged with a commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed; that power is hereby conferred on Congress to pass such laws as it may deem necessary to the acquisition as herein provided for incorporation in said national forest reserve such forest covered or cut over lands lying in Louisiana as in the opinion of the Federal Government may be needed; that power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations of both civil and criminal nature and provide punishment for violation thereof, as in its judgment may be necessary for the management, control and protection of such lands as may from time to time be acquired by the United States under the provisions of this act.

**DISPOSITION OF PENALTIES.**

Sec. 12. Be it further enacted, etc., That all monies minus the cost of prosecution, received as penalties provided for the violations of this act, shall be paid into the State Treasury and placed to the credit of the Conservation Fund.

**SPECIAL ASSESSMENT OF LANDS DEVOTED TO REFORESTATION.**

Sec. 13. Be it further enacted, etc., That in order to encourage the practice of forest culture in this State, when the owner or owners of any land which has been denuded of trees or any other land the assessed value of which shall not at the time of application exceed the sum of five dollars per acre, shall contract in writing with the Commissioner of Forestry to supervise planting and growing upon the said land suitable and useful timber trees in such manner as they shall prescribe, to protect the said land from fires, as far as practical, and to maintain the trees so planted or grown upon it in a live and thrifty condition for a period of not less than thirty years and not more than forty years, and to cut or remove from said land within that time no tree or trees except as permitted in the said contract; it shall be lawful for the State Board of Equalizers and the assessors of the several parishes, and they are hereby authorized upon the recommendation of the Commissioner of Forestry, to fix a valuation of \$1.00 per

acre upon said lands and timber, and this valuation to remain fixed and unchangeable for the period of the contract entered into by the land owner aforesaid with the Commissioner of Forestry. Any land owner who has made such a contract with the State shall be entitled to demand an annual inspection by the Chief Forester and a certificate as to whether the contract has been carried out. At the end of the contract entered into by the land owner with the Commissioner of Forestry, or at any time within that period that the owner or owners of said land shall fail to maintain it "in all respects according to the written agreements entered into by the owner and upon which the said land was given a fixed assessment for a fixed number of years, the said land shall be restored to the assessment roll and shall be taxed the same as other similar lands, and in addition thereto the said lands shall be supplemented on the assessment rolls for an amount that would equal the assessment of the land had it not been assessed under the provisions of this act. Nothing in this act shall be construed as giving the Forestry Commission jurisdiction over lands of any resident farmer without written contract.

#### **PROTECTION OF TREES FROM ELECTRIC WIRES.**

Sec. 14. Be it further enacted, etc., That it is hereby made unlawful for any electric lighting or power company to attach any wires or other lighting appliances to any tree along any street of any town or city in this State, and in towns and cities where such wires and lighting appliances are already attached to trees; the person, firm or corporation owning the same be and they are hereby required to remove the same within ninety days after the approval of this act. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five nor more than one hundred dollars for each and every offense so committed.

#### **STATE OWNERSHIP OF FOREST LANDS.**

Sec. 15. Be it further enacted, etc., That the State Conservation Commission shall have the power to purchase lands in the name of the State suitable for forest culture and reserves, at a price which shall not exceed \$1.00 per acre, using for such purpose any surplus money not otherwise appropriated, which may be standing to the credit of the conservation fund; to make rules and regulations governing State reserves.

#### **CELEBRATION OF ARBOR DAY.**

Sec. 16. Be it further enacted, etc., That the State and parish boards of public education are directed to provide for proper courses of instruction by text-books, or lectures, on the general subject of forestry in all the public schools of this State; and they are further directed to provide for the celebration by all public schools of Arbor Day, on which day, trees, flowers, etc., are to be placed, where practicable, on the grounds surrounding all public school houses.

Sec. 17. Be it further enacted, etc., That this act shall take effect on the date of its passage and all laws in conflict herewith are hereby repealed.

#### **CALDWELL GAME RESERVE.**

**Act 103 of 1918, p. 161.**

##### **TITLE.**

**AN ACT** to segregate the Caldwell Game Reserve also as a forest reserve, and authorizing the sale of timber therefrom, and providing for its distribution.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana that the Caldwell Game Reserve, created by Section 2 of Act 273 of 1910, shall be and is hereby declared to be a State forest, or forest

reserve, as defined in Section 4 of Act 261 of 1910, and it shall be administered as such, so far as is not inconsistent with and contrary to its use as a game refuge.

Sec. 2. Be it further enacted, etc., that when it shall become necessary for the proper cultivation and administration of such forest, the Department of Conservation, through its Forestry Department, shall be authorized to sell or otherwise dispose of the timber thereon; provided that all money thus derived from the sale of such forest products shall be paid into the State Treasury and placed to the credit of the Forestry Department of the Department of Conservation, to be used for the purchase of new State forests, and for that purpose only.

Sec. 3. Be it further enacted, etc., that all laws or parts of laws inconsistent herewith be and the same are hereby repealed.

## MINES AND MINERALS.

### Act 254 of 1910, p. 423.

#### TITLE.

AN ACT to establish a department of mining and minerals including oil and gas production, to provide for its proper administration, to provide for the service of a Supervisor of Minerals and assistants; and fixing their duties and salaries; authorizing the prohibition of unsafe and wasteful mining, and providing penalties.

#### SUPERVISOR OF MINERALS.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That there be and is hereby established a Department of Mining and Minerals, including gas and oil, to consist of the Register of the State Land Office, who shall be ex-officio Supervisor of Minerals, and one Deputy Supervisor of Minerals, who shall be a person having a practical knowledge of geology, and natural gas and oil, and who shall be appointed and commissioned by the Governor, on the recommendation of the Conservation Commission, for the period of one year at a time; provided the ex-officio Supervisor of Minerals shall receive as compensation for the performance of his duty imposed on him by this act, five hundred dollars per annum (\$500.00), and the Deputy Supervisor and such assistants as may be provided to be compensated as hereinafter provided, all to be paid from the Conservation Fund, the Supervisor on his own warrant.

#### INSPECTION AND REPORT OF SUPERVISION.

Sec. 2. Be it further enacted, etc., That the Supervisor of Minerals shall make inspection either in person or through the Deputy Supervisor, of all mining operations carried on in this State, particularly that of the production of natural gas and oil, so far as practicable, and shall see that every precaution is taken to insure the health and safety of workmen engaged in mining. He shall see that all provisions of law pertaining to mining now in force, or hereafter enacted, particularly those provisions pertaining to the drilling of wells and piping and consumption of natural gas and oil, are faithfully carried out, and that the penalties of law are strictly enforced against any person or persons who violates the same.

He shall make an annual report to the Conservation Commission on the first Monday in April of each year, tabulating the number and character of mining operations being carried on in this State, with location and annual production, both in quantity and value; a record of the geological strata passed through in drilling gas and oil wells; the depth at which salt water is reached in the various wells and the height to which it rises, so far as practicable.

He shall report the volume of gas and oil produced by each well, and also the initial or rock pressure of the same; the increase or decrease in pressure of the various wells so far as it can be ascertained, and also the increase or decrease in value of gas produced in gas wells; the number of miles of mains laid for the transportation of gas and oil and capacity and course of the same; the amount of capital invested in the oil, gas and other mining industries, and the number of persons employed in the

same; the amount of capital invested in the manufactures located on account of natural gas and oil and other minerals, and the number of employees and other facts or information as the Conservation Commission may require.

**DEPUTY SUPERVISOR.**

Sec. 3. Be it further enacted, etc., That there shall be appointed by the Governor, upon the recommendation of the Conservation Commission, a person having a practical knowledge of geology and natural oil and gas, and who is not directly or indirectly interested in mining or in piping or selling natural gas and oil, as Deputy Supervisor of Minerals of the State of Louisiana.

His duty shall be as herein prescribed for the Supervisor of Minerals, and he shall be the chief assistant under the supervision of the Supervisor of Minerals in carrying out the mining policy of the State. Within ten (10) days after he shall have been commissioned he shall make and execute a bond in the sum of twenty-five hundred dollars (\$2,500.00), payable to the Governor of Louisiana, which bond shall be for the faithful performance of duty and shall be approved and filed with the Secretary of State. Such Deputy Supervisor shall devote all his time to the business of the supervision of mining.

He shall receive a salary of two thousand dollars (\$2,000.00) per annum, and under the supervision of the Supervisor of Minerals shall have an allowance not exceeding one thousand dollars (\$1,000.00) per year for office and traveling expenses for himself and such assistants as may be hereinafter provided, which sum shall be paid from the Conservation Fund upon his warrant countersigned by the Supervisor of Mining.

**SAFETY INSPECTIONS.**

Sec. 4. Be it further enacted, etc., That it shall be the duty of the Deputy Supervisor of Minerals to inspect all mining operations as he may deem unsafe or dangerous to life or property or wasteful of natural resources; reserving a right of appeal by the operator, or operators, or owners, to the Conservation Commission for ten (10) days if notified by such operator or operators, or owner, to the Supervisor at the time they shall receive notice to cease operation.

Any person or persons carrying on any such operations prohibited shall be guilty of a misdemeanor and upon conviction shall pay a fine in any court having jurisdiction of such misdemeanor in a sum not exceeding one thousand dollars (\$1,000.00) or shall be imprisoned in the parish jail a period not exceeding six months, at the discretion of the court; and any person or persons in this State owning mines or carrying on mining operations or who contracts the same, who refuses to allow the same to be inspected by the Supervisor of Minerals, upon conviction shall be fined in a sum not exceeding five hundred dollars (\$500.00); provided further, that whenever any responsible person shall file with the Supervisor of Minerals an affidavit charging the owner or owners, or operators of such mines, or gas and oil wells, or their employees with the violation of any of the laws regulating mining or the production of natural oil and gas, and particularly specifying the violation complained of, it shall be the duty of the Supervisor to examine and inquire into the alleged violation of the law as set forth in the affidavit, and if he finds the facts as charged it shall be his duty to see that the law is complied with.

He shall have, and is hereby invested with authority to inquire if all persons engaged in mining operations subject to a license tax have procured license and when he shall find any operating without license he shall report the same to the Supervisor of Minerals, who shall proceed according to law to enforce the license tax collections.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That this act shall take effect from and after its passage, and all laws in conflict herewith are hereby repealed.

**PROTECTION OF GAS AND OIL FIELDS.****Act 71 of 1906, p. 111.****TITLE.**

AN ACT to protect the natural gas fields of this State; and to provide for closing, capping or plugging of wild, uncontrollable or burning natural gas wells in this State or otherwise preventing the escape and waste of natural gas therefrom by the owners or proprietors thereof after due notice; and providing, that in default of the owners or proprietors doing so after such notice, that the Governor, on complaint to him, shall direct the Board of State Engineers to close, cap or plug the same or otherwise prevent the escape and waste of natural gas therefrom at the expense of the owners or proprietors; and providing that possession of such natural gas well so closed by the State shall be retained by the State until the expense of closing the same is reimbursed to the State; and making it a misdemeanor for any person to wilfully, and intentionally set fire to any gas well or to negligently permit any natural gas well in his possession or under his management and control to catch on fire or become wild and uncontrollable, or to negligently permit the escape and waste of natural gas therefrom; and making it a misdemeanor to abandon any well in, near or adjacent to any natural gas field, or apparent natural gas field, without first plugging or securing the same to prevent the admission of water into the gas-producing sand and making it a misdemeanor for any person to intentionally or wilfully injure or damage the property, pipes or pipe lines, wells or mains, of any natural gas producing company or to intentionally divert gas therefrom; and prescribing penalties therefor.

**WILD OR WASTEFULLY BURNING WELLS.**

Section 1. (As amended by Act 283, 1910, p. 484). Be it enacted by the General Assembly of the State of Louisiana, That in order to protect the natural gas fields of this State, it is hereby declared to be unlawful and a nuisance for any person, firm or corporation to negligently permit or suffer any natural gas well to go wild or become uncontrollable or wastefully burn and the owner or proprietor or person in possession of any wild, uncontrollable or wastefully burning natural gas well, shall close the same and securely cap it or plug it or otherwise prevent the escape and waste or wasteful burning of natural gas therefrom, after five (5) days' written notice to such owner or proprietor or person in possession to do so; such notice to be given by any person having an interest in stopping such wild, uncontrollable, wasteful or wastefully burning natural gas well; or such notice may be given by any constable or Justice of the Peace of the Parish where such wild or uncontrollable or wasteful or wastefully burning natural gas well may be located, or the demand of any person having an interest in the stopping of the same.

**RESPONSIBILITY OF WELL OWNERS.**

Sec. 2. (As amended by Act 283, 1910, p. 484.) Be it further enacted, etc., That whenever such owner or proprietor or person in possession of such wild, or uncontrollable, wasteful or wastefully burning natural gas well, shall be notified to close, cap or plug the same, or otherwise prevent the escape and waste or wasteful burning of natural gas therefrom, he shall in good faith commence the work of so closing or capping or plugging the same in order to prevent the escape and waste or wasteful burning of natural gas therefrom, within five (5) days from the date of the receipt of such notice as provided for in the first section of this Act; and in the event that the owner or proprietor or person in possession of such natural gas well fails, refuses, or neglects to close, plug or cap the same or otherwise prevent the escape and waste or wasteful burning of natural gas or commence in good faith the work of doing so within five (5) days from the receipt of such notice, the Governor, on the written complaint of any person, firm or corporation having an interest in the stopping, plugging or closing of such

natural gas well, shall direct the Board of State Engineers to take charge of the work of closing such wild or uncontrollable or wastefully burning natural gas well, and the Board of State Engineers shall then proceed at once to cap or close or plug the same or otherwise prevent the wasteful escape or wasteful burning of natural gas from such well, at the expense of the owner or proprietor thereof; and to secure to the State the cost and expense of such closing, capping or plugging of such well, possession of the same, with sufficient ground adjacent thereto, it belonging to such owner or proprietor, with the rents, revenues and incomes therefrom, shall be retained by the State until the full and final payment of such costs and expense shall be reimbursed to the State, and when such owner or proprietor or person in possession of such well shall pay such cost or expense to the State, less the revenues, rents and incomes derived therefrom by the State while the same was in possession of the State, the State shall restore possession of said well to him provided, in the event that the rents, revenues, and incomes shall not be sufficient to reimburse the State as provided for in this section, then and in that event the cost and expense of closing, capping or plugging of such wild, uncontrollable or wasteful natural gas well, shall operate as a lien and privilege upon all of the property of whatsoever nature of the owner of the said wild well, and the State shall proceed to enforce said lien and privilege by suit before any court of competent jurisdiction, the same as in other like civil actions, and the judgment so obtained shall be executed in the same manner as now provided by law. If the property so seized and sold bring an amount in excess of the cost and expense occasioned by the State as provided in this section; then and in that event such excess or balance shall be paid over to the owner of such wild gas well.

**WILFULLY SETTING FIRE TO GAS WELL, ETC.**

Sec. 3. Be it further enacted, etc., That it shall be a misdemeanor for any person to wilfully and intentionally set fire to any natural gas well or negligently permit or suffer any natural gas well owned by him or under his management and control or in his possession, to catch on fire or go wild or become uncontrollable, or to negligently permit or suffer natural gas to wastefully escape or wastefully burn therefrom; and on conviction thereof shall be fined in a sum not less than five hundred dollars (\$500.00) or imprisonment of not less than three (3) months or both, at the discretion of the court.

**PROTECTION OF PIPE LINES.**

Sec. 4. Be it further enacted, etc., That any person who shall intentionally or wilfully injure or damage the property, pipes, pipe lines or mains of any natural gas well belonging to or operated by any natural gas-producing company, or who shall wilfully or intentionally divert the gas from any pipe, main or natural gas well, the property of any such natural gas-producing company, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in the sum of not less than one hundred dollars (\$100.00) or imprisonment of not less than thirty (30) days or both, at the discretion of the court.

**PROCEDURE IN EVENT OF ABANDONING GAS WELLS.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any individual, firm or corporation to abandon any well in or adjacent to a natural gas field or an apparent natural gas field without first placing a wooden plug, properly made, both above and below the gas-producing sand, to prevent the admission of water into the gas-producing sand or otherwise sufficiently securing such well against the admission of water into the gas-producing sand; and whenever any individual, firm or corporation shall abandon such well without first plugging or securing the same as provided, to prevent the admission of water into the gas-producing sand, he shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or imprisonment of not less than thirty (30) days nor more than four (4) months, or both, at the discretion of the court.

**WELLS TO WHICH ACT IS APPLICABLE.**

Sec. 6. Be it enacted, etc., That the provisions of this act shall apply to any gas well or wells which may be bored or drilled in, near to or adjacent to any natural gas field or to any apparent natural gas field and to any such well or wells which have heretofore already been bored or drilled.

Sec. 7. Be it further enacted, etc., That this act shall take effect from and after its promulgation.

**CONSERVATION OF NATURAL GAS.**

**Act 190 of 1910, p. 312.**

**TITLE.**

**AN ACT to provide for the conservation of natural gas by regulations to prevent waste in the extraction of oil and gas, and transportation thereof; and to provide penalties.**

**PROCEDURE IN EVENT OF ABANDONING OIL AND GAS WELLS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever any well shall have been sunk for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom, it shall be the duty of any person, firm or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also of the owner or owners of the land wherein such well is situated, to properly and securely stop and plug the same as follows: If such well has not been "shot" there shall be placed in the bottom of the hole thereof a plug of well-seasoned pine wood, the diameter of which shall be within one-half inch as great as the hole of such well, to extend at least three feet above the salt water level, where salt water has been struck such plug shall extend at least three feet from the bottom of the well. In both cases such wooden plugs shall be thoroughly rammed down and made tight by the use of drilling tools. After such ramming and tightening the hole of such well shall be filled on top of such plug with finely broken stone or sand, which shall be well rammed at a point at least four feet above the gas or oil bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five feet long with diameter as aforesaid, which shall be thoroughly rammed and tightened. In case such well has been "shot" the bottom of the hole thereof shall be filled with a proper and sufficient mixture of sand, stone and dry cement, so as to form a concrete up to a point at least eight feet above the top of the gas or oil bearing rock or rocks, and on top of this filling shall be placed a wooden plug at least six feet long, with diameter as aforesaid, which shall be properly rammed as aforesaid. The casing from the well shall then be pulled or withdrawn therefrom, and immediately thereafter a cast iron ball, eight inches in diameter, shall be dropped in the well, and securely rammed into the shale by the driller or owner of the well, after which not less than one cubic yard of sand pumping or drilling taken from the well shall be put on top of said iron ball.

**REGULATION OF FLOW OF WELLS.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation having possession or control of any natural gas or oil well, whether as a contractor, owner, lessee, agent or manager, to allow or permit the flow of gas or oil from any such well, to escape into the open air, without being confined within such well or proper pipes, or other safe receptacle, for a period longer than two (2) days, next after gas or oil shall have been struck in such well, and thereafter all such gas or oil shall be safely and securely confined in such wells, pipes or other safe and proper receptacles; provided that this law shall not apply to any well that is being operated for the production of oil and in which the oil produced has a higher salable value in the field than has the gas so lost.

**REGULATION OF BORING OF GAS AND OIL WELLS.**

Sec. 3. Be it further enacted, etc., That the Supervisor of Minerals shall have, and he is hereby invested with, authority to prescribe regulations for the boring of oil and gas wells, to the end that blowouts, and gas waste, otherwise, shall be avoided, which regulations shall be followed by the drillers.

Sec. 4. Be it further enacted, etc., That any person, firm or corporation, violating the provisions of Sections 1 and 2 of this Act or any reasonable regulations provided by the Supervisor of Minerals, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) or shall be imprisoned for a period not exceeding three months, in the discretion of the court.

**PENALTIES.**

Sec. 5. Be it further enacted, etc., That whenever any person, or corporation, in possession or control of any well in which natural gas or oil has been found shall fail to comply with the provisions of this Act, any person or corporation lawfully in possession of lands situated adjacent to or in the vicinity or neighborhood of such well may enter upon the land upon which such well is situated and take possession of such well from which gas or oil is allowed to escape in violation of the provisions of Sections 1 and 2 of this Act, and pack and tube such well and shut in and secure the flow of gas or oil, and maintain a civil action in any court of competent jurisdiction in this State against the owner, lessee, agent or manager of said well, and each of them jointly and severally, to recover the cost and expenses of such tubing and packing, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided by Section 4 of this Act.

**REPEALING CLAUSE.**

Sec. 6. Be it further enacted, etc., That this Act shall take effect from and after its passage, and all laws in conflict herewith are hereby repealed.

**CONSERVATION OF NATURAL GAS.**

**Act 270 of 1918, p. 516.**

**TITLE.**

AN ACT looking to the conservation of natural gas in the State; regulating the drilling for natural gas, its extraction from the earth and marketing; making persons, firms or corporations engaged in the business of purchasing and selling natural gas in the State common purchasers from all and regulating the manner of such purchase without discrimination excepting municipal corporations and the pipe lines and distribution systems of corporations the direct ownership of which may revert to any municipality; regulating the method of measuring gas so produced and purchased; conferring upon the Conservation Commission of Louisiana certain powers with reference to such boring, extraction, purchase and sale of such natural gas; charging said Commission with the enforcement of this Act; charging District Attorneys with the duty of bringing necessary suits to enforce this Act with injunction to be issued without bond, fixing penalties, etc.; providing penalties for the violation of this Act and to repeal all laws or parts of laws in conflict with the provisions of this Act.

**WHEN LIMIT APPLIED TO PRODUCTION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That, in order to further conserve the natural gas in the State of Louisiana, whenever the full production from any common source of supply of natural gas in this State is in excess of the market demands, then any person, firm or corporation having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by any such person,

firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well, so as to prevent any such person, firm or corporation, securing any unfair proportion of the gas therefrom; provided, that the Conservation Commission of Louisiana may by proper order, permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable.

**DISCRIMINATION IN SALE, ETC., PROHIBITED.**

Sec. 2. Be it further enacted, etc., That every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this State, shall be common purchaser thereof, and shall purchase all of the natural gas which may be offered for sale which may be brought in pipes and connecting lines by the owner or proposed seller to its trunk lines, at the seller's expense, or to its gathering lines, without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Conservation Commission of Louisiana after due notice and hearing, but if any such person, firm or corporation shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably, and any common purchaser of gas shall have the same right to purchase the product of any gas well or wells that are not being utilized under the conditions of this act; and in the event the owner of said well or wells refuses to sell, the common purchaser shall have the same rights of action against such owner or owners as the seller has against the common purchaser who refuses to buy, and the seller so refusing to sell shall be subject to the same penalties—etc., provided against the common purchaser who refuses to buy. This act shall not affect in any way a municipal corporation engaged in buying and selling natural gas, or any corporation that builds or maintains a pipe line or distribution system for the purchase and sale of natural gas, the direct ownership of which shall vest in, or which may under charter or franchise provisions ultimately vest in or be acquired by any municipality.

**SAME SUBJECT.**

Sec. 3. Be it further enacted, etc., That no common purchaser shall discriminate between like grades and pressures of natural gas, or in favor of its own production or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of proportioning the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion such production bears to the total production available for marketing.

**MEASUREMENT OF GAS.**

Sec. 4. Be it further enacted, etc., That all gas produced from the deposits of this State when sold shall be measured by meter and the Conservation Commission of Louisiana shall, upon notice and hearing, relieve any common purchaser from purchasing gas of an inferior quality or grade, and the Commission shall from time to time make such regulations for delivery, metering and equitable purchase and taking as conditions may necessitate.

**DUTY OF CONSERVATION COMMISSION.**

Sec. 5. Be it further enacted, etc., That it shall be the duty of the Conservation Commission of Louisiana to see that the provisions of this Act are fully and properly complied with and it shall further be the duty of the District Attorney, in whose district any violation takes place, on application of the Conservation Commission of Louisiana, to bring such suit or suits as may be necessary to enforce the provisions of this act and any injunction which may be necessary shall be furnished without bond.

**VIOLATION PENALTIES.**

Sec. 6. Be it further enacted, etc., That any person, firm or corporation or partnership violating any of the provisions of this Act shall be guilty of a misdemeanor and on conviction thereof in any court of competent jur-

indictment be liable and fined not less than \$50.00 nor more than \$500.00 or be subject to imprisonment for thirty days or be liable to both fine and punishment in the discretion of the Court for each offense, each day's continuation of such violation shall be and is hereby declared to be a separate offense.

#### **REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

### **WASTE AND UNDUE USE OF GAS.**

**Act 268 of 1918, p. 513.**

#### **TITLE.**

AN ACT defining waste and making the waste or undue use of natural gas a misdemeanor; empowering the Department of Conservation with authority to prevent the use of natural gas in a manner calculated to threaten the common reservoir of natural gas with premature exhaustion, and charging the said Department with the duty to regulate the method of taking natural gas from any well and the use of natural gas; empowering court proceedings to enforce the provisions of this act; requiring the sellers and users of natural gas in manufacturing enterprises to make full and complete report of the quantity of natural gas used by them to the department of conservation; requiring the said department to make semi-annually a full and complete report to the Governor by Parishes of the natural gas being used within the State, the waste going on and the situation as to the future supply of natural gas in the several Parishes, and likewise make such report to the President of the Police Jury of each Parish in which natural gas is produced; requiring the District Judges of the several parishes wherein natural gas is produced to charge each grand jury with the duty of investigating the waste of natural gas, or the use being made of natural gas in a manner to threaten with premature exhaustion or extinction the common reservoir of such natural gas; and providing penalties for the violation of the provisions of this act.

#### **WASTE DECLARED UNLAWFUL.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful to permit the waste of natural gas, or to use natural gas for any purpose whatsoever in such manner as will threaten with premature exhaustion, extinction or destruction the common supply or common reservoir from which said natural gas is drawn.

#### **MEANING OF WASTE.**

Sec. 2. Be it further enacted, etc., That the term waste as above used in addition to its ordinary meaning, shall include.

- (a) Wantonly or wilfully permitting the escape of natural gas in commercial quantities into the open air.
- (b) The intentional drowning with water of a gas stratum capable of producing gas in commercial quantities.
- (c) Underground waste.
- (d) Permitting of any natural gas well to wastefully burn.

#### **POWER OF DEPARTMENT TO PREVENT WASTE.**

Sec. 3. Be it further enacted, etc., That the Department of Conservation is granted full power and authority to prevent the waste of natural gas, or the use of natural gas for any purpose whatsoever in such quantities as will threaten with premature exhaustion, extinction or destruction the common supply or common reservoir from which said natural gas is drawn by preventing the flow during each 24 hours from any well of more than twenty-five per cent of the potential capacity thereof, and it is made the imperative duty of the said Department of Conservation to make frequent

inspection and investigation of the natural gas fields of the State so as to carry out the provisions of this act, and if any waste or use of natural gas in quantities to threaten with premature exhaustion, extinction or destruction the common reservoir from which the natural gas is being drawn is found to exist as waste and the undue use of natural gas has heretofore been defined, the said Department shall proceed at once to prevent or stop the waste or improper use of such natural gas; and to carry out the provisions of this act and existing laws the Department of Conservation is empowered to sue out an injunction without giving bond in any of the District Courts of the State to prevent and prohibit the said waste of natural gas or the use or manner of use of natural gas in such quantities as to threaten with premature exhaustion, extinction or destruction the common source or reservoir from which said natural gas is being drawn as waste, and the undue use of natural gas has heretofore been defined; and in all such proceedings it shall be the duty of the Attorney General of Louisiana to appear in behalf of said Department, which injunction shall not be dissolved on bond.

**POWER OF DEPARTMENT TO REGULATE USE OF PUMPS, ETC.**

Sec. 4. Be it further enacted, etc., That there is hereby granted to and vested in the Department of Conservation the power to regulate the use of pumps, compressors and other artificial or injurious means of increasing the natural flow.

**REPORTS BY PRODUCERS.**

Sec. 5. Be it further enacted, etc., That every person, association, partnership or corporation engaged in selling natural gas or using natural gas in the manufacture of any article of commerce, or for fuel in manufacturing enterprises, shall make semi-annual reports under oath to the Department of Conservation upon blanks to be furnished by the Department showing the manner of use and quantities of natural gas used or sold as aforesaid.

**REPORTS BY DEPARTMENT.**

Sec. 6. Be it further enacted, etc., That the Department of Conservation shall make a full and complete report semi-annually to the Governor of the situation in the various natural gas fields within the State, and shall likewise file with the President of the Police Jury of each Parish within which natural gas is produced a statement showing the situation concerning the present and future supply of natural gas within such year.

**JUDGES TO CHARGE GRAND JURORS.**

Sec. 7. Be it further enacted, etc., That it shall be the duty of the District Judges in those Parishes wherein natural gas is produced or found, to charge the grand juries to inquire into the waste of natural gas, or the use being made of natural gas for any purpose whatsoever that is threatening with premature exhaustion, extinction or destruction the common source or reservoir from which said natural gas is being drawn, as waste and the undue use of natural gas has heretofore been defined.

**VIOLATIONS; PENALTIES.**

Sec. 8. Be it further enacted, etc., That each violation of this act shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than sixty days, or both in the discretion of the Court, and in default of the payment of the fine imposed by imprisonment for an additional time not exceeding six months, and each day this act is violated shall constitute a separate offense hereunder after written notification given to the offender by authority of the said Department of Conservation.

**QUALIFIED REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That this act shall not repeal the existing laws on this same subject matter unless the same are inconsistent with the provisions of this act.

## PROTECTION OF OYSTER BOTTOMS AND REGULATION OF OYSTER INDUSTRY.

**Act 54 of 1914, p. 126.**

### **TITLE.**

AN ACT to regulate the oyster industry of the State of Louisiana by recognizing and declaring the ownership of the State to all water bottoms or beds of streams, bayous, lagoons, lakes, bays, rivers and canals, along the coast of the Gulf of Mexico, within the jurisdiction of Louisiana, by prohibiting their alienation in fee simple, by recognizing and declaring the ownership of the State in and to all oysters growing thereon by limiting the riparian owners to ordinary low water mark; by providing for the licensing, registering and designation of vessels employed in the oyster industry, by levying a special assessment or privilege tax on oysters taken from Louisiana waters and a license tax on persons, firms or corporations, and vessels engaged in the oyster industry; providing the manner of collecting, handling, depositing and reimbursing the revenue derived therefrom, by providing for the protection of natural oyster reefs, and the designation of oyster preserves; by providing the manner of shipping or taking oysters out of the State; and by providing such other rules and regulations necessary to properly carry out the purposes of this Act; by providing penalties and forfeitures for the violations of this Act; repealing Act No. 52 of 1904 as amended by Act 178 of 1906, Act 167 of 1908, Act 291 of 1908, Act 189 of 1910, and any part of Act 127 of 1912 in conflict herewith.

### **OWNERSHIP OF WATER BOTTOMS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all beds and bottoms of rivers, bayous, lagoons, lakes, bays, sounds and inlets bordering on or connecting with the Gulf of Mexico within the jurisdiction of the State of Louisiana, including all natural oyster reefs and all oysters and all other shell fish growing thereon shall be, continue and remain the property of the State of Louisiana, except as otherwise provided, and shall be under the exclusive control of the Conservation Commission of Louisiana. The Commission may permit the use of said bottoms and reefs for the purpose of fishing, taking, bedding and raising oysters and all other shell fish, subject to the restrictions imposed by law, and the regulations of said Commission, in so far as they do not conflict with the laws of the State.

No grant, sale or conveyance of the lands forming the bottoms of said bodies or streams of water shall hereafter be made by the Register of the Land Office, by any other official or by any subordinate political corporation.

Persons, firms or corporations domiciled in this State with their factories, shucking plants and shipping depots located herein, may enjoy the right of fishing oysters from the natural reefs and leased bedding grounds whenever they have complied with the law and the rules and regulations of said Commission, provided such oysters are canned, shucked or packed in this State or shipped raw in shells from a shipping depot in this State, but no person, firm or corporation shall ship oysters out of this State for canning or packing out of the State.

### **TIDE BOUNDARIES.**

Sec. 2. Be it further enacted, etc., That the rights of the owners or occupants of land on the shores of any of the waters hereinbefore described shall extend to the ordinary low water mark only, and no one shall own in fee simple any bottoms, or lands enumerated in Section 1. All leases of bedding grounds made in pursuance of Act 10 of 1892, Act 121 of 1896, Act 153 of 1902, Act 52 of 1904, Act 178 of 1906, Acts 167 and 291 of 1908, and Act 189 of 1910 shall continue in force and effect up to their expiration, provided the several lessees shall respectively pay to the Conservation Com-

mission of Louisiana the rental provided by law, and subject themselves to the regulations imposed by the said Commission. All owners of expiring leases shall have the first right of renewal of their leases.

**POWER OF LEASE.**

**Sec. 3.** Be it further enacted, etc., That the Conservation Commission of Louisiana shall have the power to lease any and all water bottoms and natural reefs as described in Section 1, of this Act. No claims to any water bottoms by any person, firm or corporation shall be valid or have any effect until adjudicated by a court of competent jurisdiction between the State and claimant, and said claimant shall by virtue hereof have a right of action against the State in any court of competent jurisdiction for the legal determination of the validity of his claim.

**PROCEDURE FOR LEASING.**

**Sec. 4.** Be it further enacted, etc., That any person, firm or corporation desiring to lease a part of the bottom or bed of any of the waters of this State as provided herein, shall present to the Conservation Commission of Louisiana a written application, together with a cash deposit of such amount as may be determined by the Commission, setting forth the name and address of the applicant, a reasonably definite description of the location and amount of land covered by water desired by the applicant and shall ask that the application be registered, that the water bottom be surveyed, that a plan or map of survey thereof be made, and that the water bottom described be leased to the applicant under the provisions of this Act. Thereupon the Commission shall register said application and shall order an examination to determine whether the bottoms applied for are leaseable or not. Should they be found so, a survey and plan shall be made at the expense of the applicant at a fee to be fixed by the Commission. Said expense shall be paid by the applicant to the surveyor, in compensation for his services of making the survey, at the time when the survey is made. When applications are made by two or more persons for the same water bottoms, the applicant who files the first application shall have prior claim. The Commission shall require the bodies of the water bottoms leased to be as compact as possible, taking into consideration the shape of the body of water and the conditions of the bottoms as to hardness or soft mud, which would render them desirable or undesirable for the purpose of oyster cultivation.

**LEASE OF WATER BOTTOMS, ETC.**

**Sec. 5.** Be it further enacted, etc., That in the event of said application being favorably acted upon and as soon as the survey has been made, the plan or map thereof be filed with the Commission, and the cost thereof paid by the applicant, the Commission may, at its option execute in duplicate a lease of water bottoms to the applicant with the plan of survey, one duplicate to be delivered to him and the other with the plan of survey to be retained by the Commission and registered in a lease book kept by them for that purpose.

Such lessee thereafter shall enjoy the exclusive use of said water bottoms, and all oysters, shells and clutch grown or placed thereon shall be his, her or their exclusive property, so long as the rental is paid thereon.

The lessee, under the supervision of the Commission, shall stake off and mark the water bottoms leased by such ranges, monuments, stakes buoys, etc., as it may deem necessary to ascertain and locate same to the end that the location and limits of the water bottoms embraced in the said lease be easily and accurately found and fixed.

Failure on the part of the lessee to comply with the order of the Commission to this effect within the time fixed by it, shall subject the lessee in the discretion of the Commission to a fine not exceeding one dollar (\$1.00) per acre. All lessees shall cause the area of the leased water bottom and the name of the lessee to be shown by signs as may be determined by the Commission.

**DURATION OF LEASES, LIMIT OF HOLDINGS, ETC.**

Sec. 6. Be it further enacted, etc., That all leases made under the provisions of this Act shall begin on the day that the lease is signed and shall continue for a period of fifteen (15) years thereafter, under such restrictions as are provided for herein, with the privilege of renewing such lease ten (10) years subject to and at such valuation by the Commission as conditions shall warrant.

Should the tenant or lessee be dissatisfied with the rental so fixed by the Commission, he shall have the right to bring action in the District Court for the parish in which the leased land, or the greater portion thereof, is situated, against the Commission to have said valuation passed upon and made to conform to justice and equity. Both parties shall have a right of appeal from the judgment of the District Court to the Supreme Court or Court of Appeal, as the value of the subject matter in dispute shall determine. The benefits of this Act shall extend to all leases of oyster bedding grounds heretofore made by the State through the police juries, the Oyster Commission, the Board of Commissioners for the Protection of Birds, Game and Fish and the Conservation Commission of Louisiana, and upon termination of such original leases such tenants shall have the right to renew their leases under the provisions and restrictions of this Act. The rent shall be paid in advance at the time of signing the lease up to the 1st day of October following and annually thereafter in advance on or before the 1st day of October of each year, whether the lease be held by the original lessee, or by an heir, assignee or transferee.

No person, firm or corporation shall lease, hold or control more than one thousand (1,000) acres of said water bottoms, except that when said lessee owns or operates more than one cannery plant he or they may be permitted to lease an additional five hundred (500) acres of water bottoms and reefs for a second plant, an additional three hundred (300) acres for a third plant, and an additional two hundred (200) acres for a fourth plant, provided that should the said lessee cease to operate any plant by virtue of the erection or ownership of which he has been permitted to increase his lease holding acreage, such cessation of operation shall operate a forfeiture of his lease upon such acreage as he may hold by reason of the erection or ownership of said plant other than the first plant erected, and any person, firm, or corporation which holds or controls or seeks or attempts to hold or control, by partnership or otherwise, more than this amount by any scheme, agreement, understanding, or a combination, whatsoever, shall forfeit, after due trial by a competent court, all leases held by him on it.

No license tax, other than those imposed in this Act, shall be levied or imposed by the State, or any of its subordinate political corporations or municipalities. Each tenant leasing water bottoms under the provisions of this Act shall each year after the commencement of said lease, place under cultivation at least one-tenth of the leased barren water bottoms. Sister Lake and Bay Junop in the Parish of Terrebonne shall be reserved to the State and held from leasage forever. The Commission shall plant annually not less than two hundred (200) acres in Sister Lake with shells until the entire lake shall have been planted.

The Conservation Commission of Louisiana is hereby given the right to make such stipulations in the lease as it shall deem necessary or proper when not inconsistent with the provisions of the law.

**LEASES ARE HERITABLE AND TRANSFERABLE.**

Sec. 7. Be it further enacted, etc., That all leases made in conformity with the provisions of this Act shall be heritable and transferable. They shall also be subject to mortgage, pledge or hypothecation and shall be subject to seizure and sale for debt, or any other property rights and credits in this State; this provision shall also apply to all buildings, betterments and improvements thereon. No such inheritance or transfer shall be valid or be of any force or effect whatever, unless evidenced by an authentic act, judgment or proper judicial deed registered in the office of the Commission

in a book provided for that purpose. The Commission shall keep proper indexes, so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

**MATURITY OF RENTALS.**

Sec. 8. Be it further enacted, etc., That the failure of the tenant to pay the rent punctually on or before the 1st day of October of each year or within thirty (30) days thereafter, shall, ipso facto, and without demand and putting in default, terminate and cancel said lease and forfeiture to the Conservation Commission of Louisiana all the works, improvements, betterments and oysters on the said leased water bottoms, and the said Commission is authorized to at once enter on said water bottoms and take possession thereof; thereupon such water bottoms shall be open for lease to the highest bidder, and the Commission, ten days thereafter, shall enter such termination, cancellation and forfeiture on its books and shall give public notice thereof, by publication in one local paper in the parish where said leased water bottoms are located. The Commission may waive such termination, cancellation and forfeiture provided the rent due with ten (10) per cent additional, be paid to it at any time before the said bottom lands are leased to another person.

**RATE OF RENTAL.**

Sec. 9. Be it further enacted, etc., That from and after the passage of this Act the rentals of all leased water bottoms and natural reefs made in conformity with the provisions of this Act, shall not be less than one dollar (\$1.00) per acre or any fraction of an acre per year, nor more than five dollars (\$5.00) per acre or any fraction of an acre per year, said amount to be determined by the Commission after the surveyor has reported on same as provided herein. The rate named by the Commission for such leases shall be conclusive and final.

The provisions of this Act shall extend to all leases of oyster bedding grounds heretofore made by the State, through police juries, and Oyster leases of oyster bedding grounds heretofore made by the State, through the police juries, and Oyster Commission of Louisiana, and the Board of Commissioners for the Protection of Birds, Game and Fish, and the Conservation Commission of Louisiana upon the termination of such original leases or any of the conditions thereof.

**LICENSING OF VESSELS.**

Sec. 10. Be it further enacted, etc., That all vessels engaged in the oyster industry, before beginning operations must first secure a license from the Conservation Commission of Louisiana, and for that purpose the owner, captain or agent of said vessel must present in writing an application setting forth the name and description of said vessel, the name and post office address of the owner and captain, the number of the crew, and such further data as the Commission shall deem necessary, and thereupon the Commission may register said vessel and issue the necessary license on payment of the cost thereof. All licenses shall be graduated according to the oyster carrying capacity of each boat or vessel, and shall be ascertained under the rules and regulations prescribed or to be prescribed by the Commission on the basis of twenty (20) barrels to the ton, and all vessels or boats are required to submit to the necessary survey for their license. A license tax of fifty cents per ton or fraction of a ton for each year is hereby levied on each vessel or boat engaged in the oyster industry in this State when of one (1) ton or more capacity, and a compliance with the provisions of the regulations shall be required of all vessels authorized by the Commission to be engaged in the freighting of oysters.

The name of any boat or vessel engaged in the oyster industry shall not be changed without the consent of the Commission.

These licenses shall always be subjected to inspection by the officers of the Commission, and shall not be good for any vessel or owner than that for which issued without the consent of the Commission written across the face of the license. Licenses shall be issued by the Commission on license

blanks which shall be furnished by the Commission. All vessels engaged in the business of carrying of oysters to the port of New Orleans shall have in their possession and shall display same upon arrival at said port, a manifest on blank form, to be furnished by said Commission, giving all the details of the cargo which said vessel is carrying on that particular trip.

The license year for licenses shall begin September 1st of one year and end August 31st of the next year.

The license provided by this section being licenses exacted by the State in the control of her own property and in the protection of the oyster property of others, over which a State control is necessary, no parish or municipality shall impose any license on said industry; provided, however, that no license shall be issued to others than persons, firms or corporations owning or operating factories or shucking plants in this State, and who reside in this State.

#### **RETURNS ON OYSTER BUSINESS.**

Sec. 11. Be it further enacted, etc., That each packer, canner, commission man, dealer, firm or corporation, shall keep a record of all oysters purchased by himself or themselves, with the names of the parties from whom purchased, the quantity and the date. They shall also keep an itemized account of all oysters fished by themselves and by all boats controlled by them and shall exhibit said account at all times to the Conservation Commission of Louisiana or any of its authorized employees. On the first day of each month said packer, canner, commission man, dealer, firm or corporation shall make a return under oath, to the said Commission as to the number of barrels purchased and caught during the preceding month, and a tax of two and one-half ( $2\frac{1}{2}$ ) cents per barrel on each and every barrel of oysters canned, packed, purchased, caught, or gathered from the leased water bottoms, and a tax of three (3) cents per barrel on every barrel of oysters canned, packed, purchased, caught, or gathered from the natural reefs either for sale or consumption, is hereby levied and shall be paid to, and collected by said Commission.

Inspectors of said Commission are authorized to enter upon any boat, or to enter any building other than a domicile where oysters are carried or stored and to inspect such oysters at all times.

In all operations of the Commission the standard measurement of the barrel referred to herein shall be three and seventy-three hundredths (3.73) cubic feet, which approximately represents the cubic contents of three (3) bushels, or one barrel.

#### **PORT OF ENTRY.**

Sec. 12. Be it further enacted, etc., That the Conservation Commission of Louisiana shall have the power to establish ports of entry, at such points as it may deem necessary, where privilege taxes levied herein shall be paid; and the Commission shall have the power to make such rules and regulations as may be required to enforce the collection of the privilege taxes provided for in this Act.

The Commission shall also have the right to examine, inspect and audit the books, papers and memoranda of all persons, firms and corporations engaged in the oyster industry under license issued by said Commission.

#### **CANNING LICENSE.**

Sec. 13. Be it further enacted, etc., That no person, firm or corporation, shall engage in the business of canning oysters in the State until they shall first have procured from the Conservation Commission of Louisiana, an annual license for which a charge of one hundred dollars (\$100.00) each year shall be made by said Commission for each steam box in use in such establishment. No person, firm or corporation shall engage in the buying for resale and shipping oysters raw, in shells or packed, until they shall first have procured from the said Commission an annual license for which a charge of twenty-five dollars (\$25.00) each year shall be made by said Commission when ten or more shuckers shall be employed in such establishment; when less than ten and more than five shuckers are employed, the license shall be

fifteen dollars (\$15.00) per annum; when five or less shuckers are employed, the license shall be ten dollars (\$10.00) per annum; and when no shuckers are employed and oysters are handled in the shells the license shall be ten dollars (\$10.00) per annum; when not more than ten thousand barrels of oysters are bought, shipped and sold per annum, the license shall be fifteen dollars (\$15.00) per annum; when more than ten thousand and less than fifteen thousand barrels are bought, shipped and sold per annum, the license shall be twenty dollars (\$20.00) per annum. When less than twenty thousand barrels are bought, shipped and sold per annum, and when the number of barrels bought, shipped and sold per annum shall exceed twenty thousand, the license shall be twenty-five dollars (\$25.00) per annum.

No person, firm or corporation shall begin business without first procuring a license. At the end of the year, sworn returns of oysters bought, shipped and sold by each licensee shall pay the additional license shown to be due by him thereby.

Vessels purchasing for resale oysters to make up a cargo shall procure a license permitting the conduct of such business, which shall be graded upon the tonnage of the boat employed on the following basis, to-wit:

Where the tonnage is less than five tons the license shall be ten dollars (\$10.00) per annum; where the tonnage is more than five and not exceeding ten tons, the license shall be fifteen dollars (\$15.00) per annum; where the tonnage exceeds ten tons the license shall be twenty dollars (\$20.00) per annum; and every such licensed vessel shall carry on board a suitable book in which a daily record shall be made of all oysters purchased, giving the date of purchase, the name of seller or vessel from which purchased, and the quantity of oysters purchased, which said record shall at all times be open to the inspection of the officials of said Commission without cost whenever required.

#### **LEASING AS REQUIREMENT PRECEDENT TO CULTIVATION.**

Sec. 14. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to stake off the water bottoms enumerated in Section 1 of this Act, or to bed oysters on said water bottoms without previously leasing same from the Conservation Commission of Louisiana, and after the payment of the rental and fees provided herein.

#### **RESTRICTION ON CATCHING.**

Sec. 15. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to take or catch oysters on natural reefs of the State, or to have such oysters in possession except under the rules and regulations of the Conservation Commission of Louisiana, and the onus shall be upon the accused to establish that any oysters in his or their possession were taken from leased water bottoms. For the purpose of this Act all oysters in possession of any person, firm or corporation in this State shall be deemed to be oysters fished in Louisiana waters.

All oysters taken from the natural reefs of this State shall be culled upon their natural reefs as taken, and all oysters which measure less than three (3) inches from hinge to mouth, and all dead shells shall be immediately replaced and scattered broadcast upon the natural reefs from which they are taken. No captain or person in charge of any vessel, and no canner, packer, commission man, dealer or other person shall have in his possession off the natural reefs, any natural reef oysters not culled according to the provisions of this Act. Any excess of over five (5) per centum of dead shells and oysters under the size prescribed herein in any cargo or lot of oysters shall be considered in violation of this Act, and any officer of the Conservation Commission of Louisiana is authorized to cause to be counted the whole or part of said cargo or lot of oysters at the expense of such person or vessel, to determine said percentage when found necessary; no oysters under one inch in length from hinge to mouth shall be counted, and each half shell of proper size shall be counted as one. All unculled oysters in the possession of any canner, shucker, or catcher, shall be presumed to be natural reef oysters, and the onus shall be upon the accused to prove that they were fished from a private bedding or planting ground.

Under its supervision and direction the Commission may permit lessees of oyster bedding grounds to fish for bedding purposes from natural reefs unculled oysters as seed without charge and shall have authority to designate from what natural reefs said oysters may be fished and the quantity to be taken therefrom by any lessee.

#### **RESTRICTION ON DREDGING.**

Sec. 16. Be it further enacted, etc., That it shall be unlawful to use a dredge, or any means or implements other than hand tongs, in removing oysters from the natural oyster reefs of this State except in bodies of water over a depth of ten feet, or where in the opinion of the Conservation Commission of Louisiana the body of water regardless of its depth, is declared to be too open and exposed to be fished with hand tongs, in which event the Commission shall be authorized to issue a license for the use of scrapers or dredges, provided the applicant shall pay an annual license fee of twenty-five dollars (\$25.00) for each sailing vessel using scrapers or dredges, and of fifty dollars (\$50.00) for each power vessel in addition to other licenses, and shall give bond in favor of the Commission with good security in the sum of one thousand dollars (\$1,000.00) conditioned that said implements shall not be used on the natural reefs contrary to law. The Commission is granted the power to increase or diminish the depth of water in which it shall be lawful to use scrapers or other implements in the fishing of oysters from the natural reefs of the State, provided that it shall not decrease the depth of water in which dredging may be permitted in any water other than in the parish of St. Bernard; or the Commission may suspend the fishing of oysters altogether from natural reefs when said reefs are threatened with depletion.

#### **UNRESTRICTED FISHING BY LESSEES ON LEASED GROUNDS.**

Sec. 17. Be it further enacted, etc., That lessees of propagating or bedding grounds shall have the right to use in such bedding grounds any implements or appliances they may desire. The Conservation Commission of Louisiana may require of each lessee that he shall furnish bond in favor of the Commission in the sum of one thousand dollars (\$1,000.00), that such instruments or appliances shall not be used on the natural oyster reefs contrary to law. When such instruments or appliances are used exclusively on private propagating or bedding grounds, no charge shall be made for said permit. No implements or appliances, however, shall be used in such manner as will impair or destroy any water bottom held by lessees.

#### **DEPREDACTIONS ON LEASED GROUNDS.**

Sec. 18. Be it further enacted, etc., That it shall be unlawful for any person to knowingly or wilfully take oysters, shells, or cultch, bedded or planted by a lessee under this Act, or any oysters deposited by such lessee for making up a cargo for market, or to knowingly or wilfully carry or attempt to carry same away without permission of the owners thereof, or to knowingly or wilfully remove, break off, destroy, or otherwise injure, or alter any stake, bounds, buoys, or other designation of any bedding or propagating grounds, or to knowingly or wilfully remove any bedding ground, stake, buoy, mark or other designation placed by the Conservation Commission of Louisiana. No person shall take a cargo or any part of a cargo, fish, catch or gather a cargo or any part of a cargo of such oysters, with the intent to take them out of this State into any other State for any purpose.

All owners of vessels engaged in the oyster industry shall issue printed instructions to the captains and crews in charge of said vessels, calling attention to the provisions of this section, and same shall be duly executed by the interested parties before a competent notary, the original to be kept by the Commission and a duplicate to be had in possession at all times by the captain of said vessel and shown on demand of any officer or agent of the Commission. Lack of possession of such document on a vessel or a refusal to show same, shall be prima facie evidence that such paper does not exist.

**Note.** The courts have no authority to construe this section so as to make it unlawful for any person knowingly or wilfully to take oysters growing naturally on a natural oyster reef. To be guilty, the accused must have taken the oysters, etc., from

a reef "bedded or planted by a lessee under this act." *State vs. Guldry*, 142 L. 422. The failure to prove that the oysters taken by the defendant had been bedded or planted by a lessee constitutes reversible error. *State vs. Authement*, 139 L. 1075, quoted with approval in 142 L. 437. (The subject is very fully considered). See also *State vs. Guldry*, 142 L. 441.

**DESIGNATION OF BOATS.**

Sec. 19. Be it further enacted, etc., That the Conservation Commission of Louisiana shall give to each licensed vessel or boat a license number, and the captain of said vessel shall at once cause such number to be painted on each side of the bow of such vessel or boat, in figures at least six inches high and of proportionate width, in a color distinct and different from the body color of the hull, and shall also display said number on the peak of the main sail of his vessel, and each figure on said sail shall be at least sixteen (16) inches high of proportionate width and six inches apart.

**SETTLEMENT OF BOUNDARY DISPUTES.**

Sec. 20. Be it further enacted, etc., That in all disputes as to boundaries between lessees of bedding grounds, the Conservation Commission of Louisiana is empowered with full authority to settle same and their decisions shall be subject to appeal to any court of competent jurisdiction.

**PROPERTY OF COMMISSION.**

Sec. 21. Be it further enacted, etc., That the Conservation Commission of Louisiana shall acquire such boats, vessels and other property as may be necessary to regulate and supervise the work of the Commission, and that said Commission shall establish and maintain by means of armed vessels, the necessary patrol of the Gulf Coast with authority to use such arms or force as may be necessary to capture any vessel, person or persons violating the provisions of this Act.

**EMPLOYEES OF COMMISSION AS PEACE OFFICERS.**

Sec. 22. Be it further enacted, etc., That for the purpose of carrying into effect the provisions of this Act, and the rules and regulations of the Conservation Commission of Louisiana, Commissioners, inspectors, employees of the Commission, captains and members of the crews of all vessels in the service of the Commission are hereby constituted peace officers with the power to arrest on view, without warrant, any one violating the provisions of the law, and it shall be the duty of all captains and crews to lend their assistance and the assistance of their vessels to any employee of the Commission in making arrests.

A person well informed and experienced in oyster culture who shall be a civil engineer, shall be appointed surveyor by the Conservation Commission of Louisiana. He shall be Superintendent of Oyster Resources under the direction of the Commission and his compensation shall be fixed by the Commission.

**SEIZURE OF BOATS FOR UNLAWFUL ACTS.**

Sec. 23. Be it further enacted, etc., That any owner, captain, person, agent, officer, crew or member thereof of any vessel violating the provisions of Section 18 of this Act, shall subject the vessel and cargo thereof to seizure by any one authorized to make arrests under this Act, and taken into custody and delivered to the sheriff of the parish in which the seizure is made, and shall be liable to forfeiture on appropriate proceedings being instituted by the Conservation Commission of Louisiana before the District Court of that parish; the following rules to govern the proceedings in such cases:

The proceedings shall be by ordinary suit, instituted in the name of the Conservation Commission of Louisiana by petition setting forth the cause of action and praying for the forfeiture of said vessel, and after due trial and judgment obtained, said vessel shall be sold at public auction at the principal front door of the Court House by the sheriff after due advertisement, and the proceeds thereof paid by him to the Conservation Commission

of Louisiana after deducting costs, fees, and commission prescribed by law in judicial sales.

Should the owner of such seized vessel be able to prove to the satisfaction of the court before whom the case is tried, that the captain and crew of said vessel had agreed in writing to comply with the provisions of Section 18 of this Act in every particular and that it was not the intention of said owner to permit or allow any infraction of said provisions, then and in that event, the owner of said vessel shall be considered blameless, the vessel shall be released upon payment of all costs, and the captain and crew of said vessel only shall be adjudged guilty of violating the provisions of said section, the penalty of which shall be imprisonment in the parish jail for not less than ninety (90) days, nor more than two (2) years, at the discretion of the court.

The cargo of the seized vessel, if perishable, shall at once be sold to the best advantage by the sheriff or by the seizing officer, and the proceeds disposed of in the same manner as the proceeds from the sale of the vessel. Pending this proceeding such vessel may be released upon the owner furnishing bond with good and solvent security in double the value of the vessel and which bond shall remain in the lien and stead of said vessel and cargo in the hands of the sheriff to insure its being returned in good condition to the sheriff and have the same subjected to the judgment of the court, or to pay the amount of the judgment and costs rendered in the suit.

#### **PENALTIES.**

Sec. 24. Be it further enacted, etc., That any person, firm, corporation or common carrier, their agents and officers, violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, pay the costs of the prosecution, and be fined not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00), or be imprisoned in the parish jail for not less than ninety days, nor more than two years, or both fine and imprisonment at the discretion of the court for each offense.

Upon a second conviction of any person, firm or corporation, for violating any of the provisions of this Act, all licenses issued to such person, firm or corporation shall be forfeited, and the judge shall declare it so, as a part of his sentence.

#### **DISPOSITION OF FINES.**

Sec. 25. Be it further enacted, etc., That all fines collected under the provisions of this Act shall be payable to the Conservation Commission of Louisiana for the use of upbuilding the natural oyster reefs of the State by planting cultch or shells thereon.

#### **REPEALING CLAUSE, EXCEPTIONS.**

Sec. 26. Be it further enacted, etc., That all laws or parts of laws contrary to or inconsistent with the provisions of this Act, and particularly Act No. 52 of 1904, as amended by Act 178 of 1906, Act No. 167 of 1908, Act No. 291 of 1908 and Act No. 189 of 1910, and any and all parts of provisions of Act No. 127 of 1912 inconsistent with or contrary to the provisions of this Act be and the same are hereby repealed.

The constitutionality of the act was attacked on numerous grounds, all are considered, and the act declared constitutional. *State vs. Guidry, 142 L. 422.*

### **STANDARD MEASURE FOR OYSTERS.**

#### **Act 51 of 1910, p. 85.**

#### **TITLE.**

**AN ACT** making provisions for a standard measure for the buying and selling of oysters arriving at cities and ports in the State of Louisiana of more than fifty thousand inhabitants for the inspection of such oysters and stamping of such measure and the fees for such inspection and stamping, for the appointment of inspectors and providing penalties for the violation of said Act, or any part thereof.

**POR TS WHERE STANDARD MEASURE IS REQUIRED.**

Sec. 1. Be it enacted by the General Assembly of the State of Louisiana, That there shall be in this State for the purchase and sale of oysters arriving at ports or cities within the State of more than fifty thousand inhabitants from any other port, city or place, whether said oysters arrive in barrels, sacks, bulk or otherwise, a standard measure in the form of a basket, which shall contain one bushel and one-half bushel, said baskets to be inspected and stamped by the Inspector of Weights and Measures or other officers exercising his functions for the respective districts or parishes where said oysters arrive, if there be any such inspector or officer at the place of arrival, and in the parish of Orleans by the Inspector of Weights and Measures of the municipality or district where the oysters thus arriving are unloaded.

**DEFINITION OF STANDARD MEASURE.**

Sec. 2. Be it further enacted, etc., That each and every sack of oysters arriving at the ports or cities mentioned in Section 1 of this Act shall contain one standard basket as established by this Act, and each and every barrel of oysters arriving at the different ports or cities mentioned in Section 1 of this Act, shall contain two standard baskets as established by Section 1 of this Act, said sacks and barrels to be inspected by the Inspector or officer exercising his functions as provided in Section 1, and must contain the measurements stated in this Act at the time of delivery to the consignee, buyer or importer, and at the time of delivery to any subsequent buyer of said oysters after arrival, whether in sacks, barrels or baskets.

**FEES OF INSPECTOR OF WEIGHTS AND MEASURES.**

Sec. 3. Be it further enacted, etc., That the Inspector of Weights and Measures or other officer exercising his functions in the district or parish where said oysters are unloaded shall be entitled to charge and collect for such inspection from the buyers, importers or consignees of said oysters a fee of one-fourth of one cent for each basket inspected and unloaded, payable immediately, and the inspector or other officer exercising his functions may issue a certificate of inspection and measurement which shall be prima facie evidence of such inspection and measurement of the oysters under the provisions of this Act; provided that for the stamping of each basket in Section 1 such inspector or officer shall be entitled to charge and collect immediately after stamping, from the owner or owners of the baskets so inspected or stamped, a fee of thirty cents.

**RIGHTS OF INSPECTORS.**

Sec. 4. Be it further enacted, etc., That for the purpose of making the inspection and measurement provided by this Act, and of ascertaining the number of sacks, barrels and baskets arriving in the different ports and cities mentioned in Section 1 and the names and addresses of the sellers, exporters, consignors, buyers, importers and consignees of such oysters to be inspected and measured under the provisions of this Act, and the quantity consigned to each buyer, imported and consignee, and such other information as may be necessary to obtain in order to perform the duties imposed upon him by law, such inspector or officer exercising his functions shall have the right and power to go on board the boat arriving with such oysters, in order to count the number of barrels, sacks and baskets thus arriving and to be unloaded from said boat, and shall also have the right and power to demand and obtain an examination of the boat's manifest and it shall be the duty of the owner, master, captain or other person in charge of said boat or of said manifest to produce the manifest and allow such examination by said inspector or officer.

**INSPECTION A COMPULSORY REQUIREMENT.**

Sec. 5. Be it further enacted, etc., That any and all buyers, sellers, importers and exporters of oysters arriving at the different ports and cities in the State of Louisiana, of more than fifty thousand inhabitants, are charged with the duty of having such oysters inspected and measured, and such baskets inspected and stamped, in accordance with the provisions of this

Act and any and all buyers, sellers, importers and exporters of oysters arriving at the ports and cities mentioned in Section 1, and any and all owners, masters and captains of boats arriving with oysters at said ports or cities, and any other person or persons, firm or firms and corporation or corporations (through their proper officer) violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor and shall be punishable for each offense by fine not exceeding twenty-five dollars, or imprisonment not exceeding thirty days, or both, at the discretion of the court having jurisdiction.

#### **DOMICILE OF OYSTER INSPECTORS.**

Sec. 6. Be it further enacted, etc., That there shall be an oyster inspector selected and appointed by the Governor from each parish shipping oysters under the provisions of this Act, whose duties and functions shall be to inspect and measure every sack and barrel of oysters arriving at the different ports or cities mentioned in Section 1 of this Act, at the same time and place as the inspection might be made by the Inspectors of Weights and Measures, or other officer exercising similar functions, mentioned in Section 2 of this Act; provided, there shall be only one inspection and measurement of oysters made by each oyster inspector provided for in this section.

#### **FEES OF OYSTER INSPECTORS.**

Sec. 7. Be it further enacted, etc., That the said oyster inspector, mentioned in Section 6 of this Act, shall be entitled to collect from the buyer, importer or consignee of said oysters, one-fourth of one cent for each basket inspected and unloaded, payable immediately by the said buyer, importer or consignee of said oysters for the account and at the expense of the consignor or shipper of said oysters; provided that the oyster inspector herein mentioned shall sign all certificates of inspection and measurement referred to in Section 3 of this Act, together with the Inspector of Weights and Measures, or other exercising his functions, and no such certificate shall be valid or of any effect unless signed by both said inspectors, nor shall any claim for shortage of measure be allowed any consignee, buyer or importer of said oysters, unless he shall have first secured this certificate of inspection and measurement.

#### **DISCREPANCIES IN INSPECTION.**

Sec. 8. Be it further enacted, etc., That in the event the two inspectors provided for in this Act fail to agree in their inspection and measurement of oysters, as provided for in this Act, either or both shall immediately call in as arbitrator the presiding officer of the board, or commission, exercising control over the oyster industry, and, in his absence, any member of said board or commission, and, in the absence of the latter, any inspector of said board or commission, whose award shall be final and who shall make out and sign the certificate of inspection and measurement herein referred to.

#### **REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent herewith be and the same are hereby repealed.

#### **TAX ON DREDGING OF SHELLS.**

Act 42 of 1914, p. 106.

#### **TITLE.**

AN ACT to authorize the Conservation Commission to grant the right and privilege to any person, firm or corporation to take oyster shells or shell deposit from the shell reefs of this State; to fix the minimum price per cubic yard for such shells or shell deposits for which such right or privileges may be sold and granted; to provide certain terms and conditions under which such right or privilege may be granted, and to authorize the Conservation Commission to require or provide additional terms and conditions for the protection of the rights of property of the State.

**COMMISSION MAY GRANT RIGHT TO TAKE OYSTER SHELL DEPOSITS, ETC.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the Conservation Commission be and is hereby authorized and empowered to sell and grant unto any person, firm or corporation the right and privilege of taking oyster shell deposits from any of the shell reefs within the boundaries of this State and located in or on the borders of the Gulf of Mexico, or of any of the bays, lakes, inlets or waterways connected with or emptying into said gulf, or into any of such bays, lakes or inlets.

**EXTENT AND PERIOD OF GRANT, ETC.**

**Sec. 2.** Be it further enacted, etc., That such right and privilege as is described in Section 1 of this Act may be sold and granted by the said Conservation Commission for a fixed period which shall not be in excess of fifteen (15) years with the privilege of renewing such lease or contract for an additional ten years after the expiration of the first fifteen years at and for a fixed price for each cubic yard of shells which may be taken from such shell reef, which price shall be not less than three cents per cubic yard; that payment for the shells taken each month shall be made during the succeeding month; that the person, firm or corporation to whom the right and privileges is sold and granted, shall supply and provide all of the boats, barges, machinery, tools and implements of every kind or character which may be necessary to take and remove shells from such reef or reefs without cost, expense or liability of any kind to the Conservation Commission; that the person, firm or corporation to whom such right or privilege shall be sold and granted, shall be liable and responsible for him or it, his agents, directors or employees of any kind, whether such damage or damages be done to the property of the State, or the property of an individual, firm or corporation, or to any person or persons; that the contract shall provide for the forfeiture of the right and privilege upon the failure of the person, firm or corporation to which the right and privilege may be sold or granted, to make payment under the terms and within the time provided in the contract for the shells or shell deposits which may be taken from such reef; that the Conservation Commission shall have power and authority and is hereby directed to make such other stipulations in the contract as the said Conservation Commission shall deem necessary or proper to protect the interest and property of the State, and to enforce the rights of the State and to compel compliance of the obligations assumed or to be assumed by the person, firm or corporation to whom such right and privilege may be sold and granted, and the Conservation Commission shall require a bond for a sum of not less than one thousand dollars executed by a surety company authorized to do business in this State, to secure the faithful performance by the person, firm or corporation to whom such right and privilege may be sold and granted of all of the obligations assumed by such person, firm or corporation in the said contract.

**REPEALING CLAUSE.**

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws inconsistent with or contrary to this Act be and the same are hereby repealed.

**STANDARD MEASURE FOR SHRIMP.****Act 85 of 1904, p. 205.****TITLE.**

AN ACT to establish a standard of measure for weighing shrimp.

**SHRIMP MEASURE.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That shrimp shall be measured by the basket, and that each basket shall contain seventy pounds avoirdupois of shrimp.

**Sec. 2.** Be it further enacted by the General Assembly, etc., That all laws, and parts of laws in conflict herewith be, and the same are hereby repealed.

## DEPREDACTIONS ON LEASED GROUNDS.

### Act 6, E. S. 1917, p. 7.

#### **TITLE.**

AN ACT to make it unlawful for any person or persons, knowingly or wilfully to take or carry away oysters, shells, or cultch from any leased water bottoms belonging to, and within the jurisdiction of, the State of Louisiana, without the permission of the lessee thereof; to define such offense as a misdemeanor; to provide for the punishment for the violation of the provisions of this Act, and to prescribe and fix the penalty for such violation; and to repeal all laws or parts of laws, contrary to or inconsistent herewith.

#### **WILFULLY TAKING AWAY, ETC., OYSTERS, ETC.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any person or persons knowingly or wilfully to take, carry away, or attempt to take or carry away, without the permission of the lessee, any oysters, shells, or cultch from the water bottoms of the Gulf of Mexico, or the lakes, bays, inlets, lagoons, rivers, bayous or other waters tributary thereto or connected therewith, within the jurisdiction of the State of Louisiana, which said bottoms are at the time of such taking let or leased to any person, firm, or corporation under the laws of Louisiana, for the purpose of bedding, planting, propagating, or cultivating oysters.

#### **VIOLATION OF ACT IS MISDEMEANOR.**

**Sec. 2.** Be it further enacted, etc., That whoever shall violate this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay the cost of prosecution, and be fined not less than one hundred dollars nor more than two hundred fifty dollars, and shall be imprisoned in the parish jail for not less than thirty days, nor more than four months, at the discretion of the court, for each offense.

#### **PROSECUTION UNDER PREVIOUS ACTS.**

**Sec. 3.** Be it further enacted, etc., That the passage of this Act shall not abate prosecution and conviction of persons charged with the violation of existing laws, and for the purpose of such prosecution, conviction, and punishment the said laws shall continue in force.

#### **REPEALING CLAUSE.**

**Sec. 4.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

## **PRESERVATION AND CONTROL, ETC., OF BIRDS, FISH, DEER, ETC.**

### Act 204 of 1912, p. 401.

**Note.** This Act (204 of 1912) and Act 127 of 1912 (printed at p. 1377) are companion acts and not contradictory of one another. *State vs. Morgan*, 133 L. 1033.

#### **TITLE.**

(As amended by Act 106, 1918).

AN ACT to conserve the natural resources of the State of Louisiana including the natural wild life on land and in the waters of the State, and, also, the soil, mineral and forestry resources of the State; to provide a code of laws governing the conservation of the natural resources of

the State; to vest in the State the title to all wild life of the State and to provide in what manner such wild life may be made subject to private ownership, to provide for the confiscation of wild life illegally taken; to regulate the time when, the manner in which, the number of various species of wild life that may be taken, and when they may not be taken; to provide how such species of wild life reduced to private ownership may be shipped and transported within and without the State; to define what shall be considered to be game birds and game fish, to prohibit the sale of game birds and certain wild quadrupeds, and designate what game birds may be sold; to prohibit the liberation in the State of imported game and other wild birds without the consent of the Department of Conservation; to provide for the leasing, purchase, establishing and regulation of game preserves for propagating and resting places, and prohibiting trespassing or depredating thereon; to regulate the taking of freshwater fish in the waters of the State, and the shipment and the sale of such fish in the State; prohibiting the sale of all game fish; to provide for the confiscation of all unlawful fishing devices; to provide for the propagation of fish and the establishing of fish preserves; to prohibit the taking of fish under certain circumstances; to prevent the destruction of fish by certain means and the polluting of the waters of the State; and the obstruction of the passage of fish; to regulate the taking and having in possession and sale of terrapin in the waters of the State; to regulate the taking of wild deer and other wild quadrupeds; to establish certain definitions and constructions used in connection with this Act; and to provide penalties therefor, and to repeal all laws in conflict therewith.

**TITLE TO WILD LIFE AND FISH.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the ownership and title to all fish, birds, and wild quadrupeds found in the State of Louisiana, or in the waters under the jurisdiction of the State not held by private ownership legally acquired, is hereby declared to be in the State; no fish, birds or wild quadrupeds shall be caught, taken or killed in any manner or at any time or had in possession except the persons so catching, taking or killing or having the same in possession, shall consent that the title to such fish, birds and wild quadrupeds shall be and remain in the State of Louisiana for the purpose of regulating and controlling the use and disposition of the same after such catching, taking, or killing, except that the title to such fish, birds or wild quadrupeds legally taken shall vest in the person so taking or possessing them, subject to the restrictions and provisions of law.

**HOURS IN WHICH GAME BIRDS MAY BE KILLED.**

**Sec. 2.** (As amended by Act 106, 1918). Be it further enacted, etc., That no person at any time of the year shall pursue, take, wound, or kill in any manner, number, or quantity, any birds, wild quadrupeds, or fish protected by law, or buy, sell, offer, or expose the same or any part thereof for sale, transport or have the same in possession except as permitted by law. That all game birds permitted by law to be taken shall only be taken in the daytime from one-half hour before sunrise to sunset, during the open season provided therefor, and then only with a gun fired from the shoulder without a rest.

**TRANSPORTATION OF GAME.**

**Sec. 3.** Be it further enacted, etc., That no common carrier or person in its employ while engaged in such business of common carrier shall transport any wild game protected by law or any part thereof except as may be permitted by law.

A person may transport within the State in one day during the open season or cause to be transported by another the number or limit of game, that he may lawfully take in one day when such game is intended for sale,

provided that a person transporting or shipping game shall produce a written declaration signed by the hunter who killed the said game, setting forth the number and species of birds killed, the day on which they were killed and the number of his hunting license; and when transporting or shipping for another he must produce a similar written declaration signed by the hunter for whom he is making the shipment, these declarations to be made on forms to be furnished by the Conservation Commission without cost, and forms to be attached to the package containing the shipment; any hunter failing to attach such form to his shipment or signing the name of another hunter to any form, or making any false statement in his declaration, shall be guilty of a misdemeanor.

#### **PROTECTION OF DEER.**

Sec. 4. Be it further enacted, etc., That the Conservation Commission shall be vested with authority to fix the open season during which wild deer other than fawns, may be killed in the various parishes of the State. The open season shall not exceed five months and must include the months of November and December, otherwise the Commission may vary the open season to suit the conditions of the several individual parishes. No deer shall be killed for sale or offered or had in possession for sale. A person may take five such wild deer in an open season and may possess two (2) carcasses or parts thereof at any one time.

#### **PROTECTION OF SQUIRRELS.**

Sec. 5. (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person to kill any squirrel or chipmunk between the fifteenth day of February and the fifteenth day of September, inclusive. A licensed hunter may kill fifteen (15) squirrels and chipmunks in the aggregate, in one day. They may be bought and sold in the open season by the lawful holder of a state hunting license.

#### **PROTECTION OF FUR-BEARING ANIMALS.**

Sec. 6. (As amended by Act 106, 1918). Be it further enacted, etc., That mink, otters, muskrats, racoons, skunks, fox, and opossums may be taken in any manner and bought and sold and possessed from the first day of November to the fifteenth day of February, both inclusive, by the lawful holder of a State trapping license; except that muskrats may be killed at any time when found within five (5) miles of any levee; and provided further that the owner of any place on which any of said animals are deprecating may kill them at any time; and provided further that whenever in the opinion of the Department of Conservation muskrats are causing or might cause damage to cultivated or pastured lands then and in that event the Department of Conservation be and is hereby authorized to permit the taking and snaring, trapping, or killing of such muskrats as in the opinion of the Commissioner may be causing, or may cause, damage to such cultivated or pastured lands at any time. All skins of said animals killed during the open season may be had in possession during the close season.

Sec. 7. (As amended by Act 106, 1918). Be it further enacted, etc., That foxes, wolves, and wild cats hunted for sport may be taken in any manner and at any time, and may be possessed by the lawful holder of a state hunting license.

#### **PROTECTION OF GAME BIRDS.**

Sec. 8. (As amended by Act 106, 1918). Be it further enacted, etc., That for the purpose of this Act the following shall be considered resident and migratory game birds and that may be hunted during the open season prescribed in Section 9 of this Act: (a) Anatidae, or waterfowl, including wild ducks, geese, and brant. (b) Rallidae, or rails, including coots (poule d'eau), gallinules, and rails (marsh hens). (c) Limicolae, or shorebirds, including avocets, curlews, dowitchers, godwits, knots, oyster-catchers, phalaropes, plover, snipe, stilts, turnstones, willet, woodcock, yellow-

legs, and sandpipers (churocks). (d) Gallinae, or upland fowl, Bob White (quail or partridge), wild turkeys, and prairie chickens. (e) Columbidae, or pigeons, including Inca, ground, white-winged, and mourning doves. (f) Corvidae, or crows, including grackles (chocks or crow-blackbirds), and red-winged and other blackbirds. (g) Ardeidae, or herons, including only black and yellow-crowned night herons (gros-bec).

Note. Sections 8 and 11 do not conflict with nor are they destructive of each other. State vs. Gaspar, 136 L. 500. (These sections have since been amended by Act 106, 1918.)

#### CLOSED SEASON.

Sec. 9. (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person to kill, snare, trap, or in any way take, capture, annoy, or destroy, any game bird except during the open season herein fixed, and then only with a gun, not larger than a number ten gauge, fired from the shoulder without rest, by the lawful holder of a state hunting license.

That the open season as to resident and migratory wild waterfowl, including geese and ducks, rails, coots (poule d'eau), and shore-birds, including snipe, plover, yellowlegs and sandpipers, is hereby fixed from November 1st to January 31st of each year, inclusive;

That the open season as to resident and migratory wild doves is hereby fixed from September 15th to December 31st of each year, inclusive;

That the open season for wild turkey, cocks and hens, is hereby fixed from November 15th to March 31st of each year, inclusive;

That the open season as to Bob White (quail or partridge) is hereby fixed from November 15th to the last day of February of each year, inclusive;

That the open season for night herons (gros-becs) is hereby fixed from July 1st to November 31st of each year, inclusive.

Grackles (Chocks or crow-blackbirds), crows, and red-winged and other blackbirds may be taken at any time by any licensed hunter.

No wild game birds may be killed for the purpose of being used for bait for traps, nor shall any wild ducks be used for that purpose. Any person found guilty of violating this provision of this Act shall be deemed guilty of a misdemeanor and shall be punished as provided for in this Act.

#### SPECIAL CLOSED PERIOD ON CERTAIN GAME BIRDS.

Sec. 10. (As amended by Act 106, 1918). Be it further enacted, etc., That prairie chickens, upland plovers (papabottes), ringnecked pheasants, shall not be killed or had in possession at any time until November 1st, 1922; Woodcock shall not be killed or had in possession until November 1, 1923.

#### NUMBER OF GAME BIRDS WHICH MAY BE KILLED.

Sec. 11. (As amended by Act 106, 1918.) Be it further enacted, etc., That it shall be unlawful for any person to kill or destroy more than the following game birds in one day during the open season provided for the hunting thereof; Ducks—twenty-five (25) in the aggregate of all kinds. Geese and brant—ten (10). Coots (poule d'eau), rails and gallinules—twenty-five (25) in the aggregate of all kinds. Snipe—twenty-five (25). Woodcock—Ten (10). Doves—Twenty-five (25). Bob White (quail or partridge)—Fifteen (15). Wild turkey—One (1). Night Herons (gros-bec)—Fifteen (15). Other game birds not specifically named—Fifteen (15) in aggregate of all kinds.

Game birds held in possession contrary to the provisions of this Section shall be confiscated by the Department of Conservation through its officers, inspectors, or agents, and disposed of to charitable institutions.

Note. See note to Sec. 8.

#### DESTRUCTION OF EGGS FORBIDDEN.

Sec. 12. (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person to destroy, or attempt to

take or destroy, the nests or eggs of any of the birds protected by law unless it be done by order of the Department of Conservation for the purpose of re-stocking, breeding, and propagating; provided, that no person shall invade or go upon private property for the purpose of gathering eggs, even by order of said department, when the owner or keeper of such property objects thereto.

That the Department of Conservation shall issue permits to accredited persons to collect specimens of wild animals and bird life, young, nests, and eggs for strictly scientific or educational purposes only. All holders of such permits must, at the expiration of such permits, file with the Department of Conservation a complete list, stating the species and numbers of birds, young, nests, or eggs collected under it.

#### **ILLEGAL POSSESSION OF GAME BIRDS.**

**Sec. 13.** (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to sell, offer for sale, or have in possession, any game bird or birds, dead or alive, after the first day of February until the first day of November in each year, as well as during the close seasons fixed in this act, except as otherwise permitted. Any bird so held may be confiscated by the Department of Conservation through its officers, inspectors, or agents, and disposed of to charitable institutions.

#### **POSSESSION, SALE, ETC., FORBIDDEN.**

**Sec. 14.** (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to sell, exchange, expose, or offer for sale or exchange, have in possession, or keep in cold storage, either for himself or others, any game birds mentioned in this act, during the close season noted herein, irrespective of the time when, or place where such birds were killed or captured, except as otherwise permitted. Provided, however, that any game on hand at the close of the open season may be offered for sale and disposed of during the first five days of the close season. Any birds so illegally held may be confiscated by the Department of Conservation through its officers, inspectors, and agents, and disposed of to charitable institutions.

#### **PROPERTY OF BIRDS, ETC., IN CONFINEMENT.**

**Sec. 15.** Be it further enacted, etc., That game birds and wild quadrupeds propagated and maintained in confinement shall be the property of the person so propagating and maintaining them; provided, that they shall not be sold during the close season for similar wild birds.

#### **SELLING, ETC., FORBIDDEN BETWEEN CERTAIN DATES.**

**Sec. 16.** (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person, firm, corporation to sell, offer for sale, or have in possession for sale, any game birds protected by law except wild ducks, coots (poule d'eau), snipe, geese, brant, and rail. Wild ducks, coots (poule d'eau), snipe, geese, brant, and rail may be sold between December 15th and January 31st of each year, inclusive. It shall be unlawful for any person, firm, or corporation to sell, offer for sale, or have in possession for sale, any wild ducks, coots (poule d'eau), snipe, geese, brant, and rail between the 1st day of February and the 14th day of December of each year, inclusive, and any person so offending shall be subject to prosecution for violating the provisions of this act, and upon conviction shall suffer the penalties provided by Section 65 of this act. The sale, possession, or offering for sale of each bird contrary to the provisions of this Section shall constitute a separate offense. Any bird so sold, held in possession, or offered for sale contrary to the provisions of this Section shall be confiscated by the Department of Conservation through its officers, inspectors, or agents, and disposed of to charitable institutions.

**LIBERATING OF MAMMALS, ETC., WITHIN STATE.**

Sec. 17. (As amended by Act 106, 1918). Be it further enacted, etc., That no wild birds or mammals of any species, from without the State shall be liberated within the State, except upon written consent of the Department of Conservation; and no wild birds or mammals taken within the State shall be exported from the State except on permit issued by the Department of Conservation, and then for scientific or educational purposes only.

**SETTING FIRE TO WOODLAND, ETC.**

Sec. 18. (As amended by Act 47, 1914, p. 114.) Be it further enacted, etc., That it shall be unlawful for any person during the game breeding season, to-wit: from the 15th day of February to the 1st day of November of each year to set fire to any wild woodland, marsh land or prairie land.

**KILLING, ETC., GAME AND FISH ON PRESERVES.**

Sec. 19. Be it further enacted, etc., That it shall be unlawful for any person to kill, pursue, take, snare, have in possession, or injure by any means upon the land or water of any game or fish preserve in any parish of the State, whether enclosed or unenclosed, that may be designated and set apart by the Conservation Commission as game and fish propagating and breeding grounds, any wild birds protected at any time by law, except under regulations of the Conservation Commission.

The killing or having in possession of each such protected game bird shall constitute a separate offense.

**HUNTING ON LANDS OF ANOTHER.**

Sec. 20. Be it further enacted, etc., That nothing in this act shall be construed to give the holder of a hunting license permission to hunt on the cultivated or pasture lands of another person without the written consent of said owner.

**KILLING OF DESTRUCTIVE BIRDS AND ANIMALS.**

Sec. 21. Be it further enacted, etc., That in the event that any species of birds or wild quadrupeds protected by law shall at any time in any locality, become destructive of private or public property, the Commission shall have power, in its discretion, to direct any Conservation Agent, or issue a permit to any citizen of the State, to take such species of birds or quadrupeds and dispose of them in such manner as the Commission may provide.

**RIGHT TO ESTABLISH PROPAGATING GROUNDS.**

Sec. 22. (As amended by Act 106, 1918). Be it further enacted, etc., That the Department of Conservation may accept, operate, set aside, rent, lease, or buy sanctuaries, propagating or nesting places, or may establish, operate, and maintain a propagating ground or resting place on any or all State game preserves for the protection and propagation of birds, fish, or game, and the Department may distribute birds, fish and game at any point, or points in this State, and may do whatever may be necessary to carry this provision into effect.

"That a private propagating ground or nesting place for the protection of birds, fish, or game may be established by a resident owner or person, by publishing once a week for not less than four weeks in a newspaper printed in the parish or nearest place where such land or lands and water are situated, a notice substantially describing the same, and stating that it will be used as a private propagating ground, and resting place to propagate and protect fish, birds, or game for the owner's use. Part of a lake or pond may be laid out in a private park if all riparian owners, including owners of the bed thereof, consent thereto in writing. If the State of Louisiana be such owner, such consent may be given by the Department. But the waters stocked with fish by the State with the consent of the owners

at any time shall not be laid out in any such park. If waters or lands are hereafter stocked by the State with fish or game with the consent or knowledge of the owner, the provisions of this Section shall no longer apply thereto. An owner having so established such a private propagating ground cannot hunt thereon.

#### **POSTING OF GAME PRESERVES.**

Sec. 23. Be it further enacted, etc., That notices or sign boards, not less than one foot square, warning all persons against hunting or fishing or trespassing thereon, for that purpose, shall be conspicuously posted and maintained on such private propagating grounds or resting place as follows:

Not more than forty (40) rods apart along the entire boundary thereof, if it consists of a lake or pond only, in at least four conspicuous places on or near the shores thereof; if it consists of a stream only, not more than one-half mile apart, on the banks thereof. If such propagating grounds or resting place be fenced, upon part or whole of the outer boundary thereof, notices shall be placed on or near the fence, not more than forty (40) rods apart. It shall be considered due service of notice for trespass upon any person or persons by serving them personally in the name of the owner or owners of such private propagating grounds or resting places with a written notice containing a brief description of the premises, warning all persons against hunting or fishing, or trespassing thereon.

#### **NOTICES WHICH PRIVATE OWNERS SHALL MAINTAIN.**

Sec. 24. Be it further enacted, etc., That a resident owner or person having the exclusive right to hunt or fish upon enclosed or cultivated lands, or to take fish in a pond or stream and desiring to protect same, shall maintain such notices or sign-boards, as are described in the preceding section, and one sign at each corner thereof; or if waters only, upon or near the shores thereof, in at least two conspicuous places, or may personally serve a written notice in the name of such owner or person containing a brief description of the premises, warning all persons against hunting or fishing or trespassing thereon for that purpose.

#### **PRINTED NOTICES FURNISHED BY COMMISSION.**

Sec. 25. Be it further enacted, etc., That upon written application of the Commission, accompanied by one dollar (\$1.00) for every ten notices, or part of ten notices applied for, printed notices may be furnished by the Commission.

#### **TAKING ETC., OF FISH, ETC., AFTER NOTICE.**

Sec. 26. Be it further enacted, etc., That no person shall take or disturb fish, birds or game, in any private park or private lands, or trespass thereon, for that purpose, after notice as prescribed herein.

#### **PENALTIES IMPOSED.**

Sec. 27. Be it further enacted, etc., That a person who injures, defaces or removes a notice or signboard, placed or maintained pursuant to the provisions of this Act, is guilty of a misdemeanor, and liable to a penalty of not less than five dollars (\$5) nor more than twenty-five dollars (\$25).

#### **PROHIBITION OF KILLING AND TAKING OF BIRDS AND GAME ON STATE PRESERVES.**

Sec. 28. Be it further enacted, etc., That it shall be unlawful for any person to kill, snare, or pursue, with intent to kill or take by any means, or to have in possession, any wild animal or bird upon any of the State game preserves now designated as such, or that may hereafter be designated as such by the Conservation Commission. The killing or pursuing, with intent to kill, snare or take, or the having in possession of each wild animal or bird, on said preserves, shall constitute a separate offense.

This section shall not prohibit the Conservation Commission from killing or having killed any wolves, wild cats, or other noxious animals on lands under their supervision, or from having caught or ensnared any wild animals or birds for the purpose of propagation, restocking, educational purposes, or scientific investigation.

**PROTECTION OF INTRODUCED BIRDS AND ANIMALS.**

**Sec. 29.** Be it further enacted, etc., That it shall be unlawful to catch, kill, snare or pursue, any wild animal or bird, imported into this State by the Federal Government, or by any person or association of persons, under the supervision and consent of the Conservation Commission, for the purpose of experimentation or propagation.

**RIGHT OF STATE TO ACCEPT LANDS FOR GAME PRESERVES.**

**Sec. 30.** Be it further enacted, etc., That the Conservation Commission is hereby empowered to accept from any resident owner, firm, corporation, State or Federal Government, any lands or waters suitable for game and fish preserves, to designate and set apart same as game and fish preserves, and to provide such rules and regulations, not contrary to law, for the conservation of the birds, game and fish found thereon.

**PENALTIES.**

**Sec. 31.** Be it further enacted, etc., That a person who violates any provision of the sections of this act relative to game preserves, shall be guilty of a misdemeanor, and shall be subject to a fine of not less than five dollars (\$5) nor more than one hundred dollars (\$100.00), with costs of suit, for each offense or trespass, to be imposed by any court of competent jurisdiction.

**PROTECTION OF FRESH WATER FISH.**

**Sec. 32.** Be it further enacted, etc., That no person within the State of Louisiana shall catch, have in possession, or attempt to catch or hold in possession, living or dead, any fresh water fish, or purchase or offer for sale any such fish after same has been caught, except as otherwise permitted.

**USE OF SEINES AND HOOP NETS.**

**Sec. 33.** (As amended by Act 47, 1914, p. 111). Be it further enacted, etc., That the setting of hoop nets in bayous and lagoons and streams of less than forty yards in width, and the seining of fish in the fresh waters of the State is hereby prohibited, except that the Conservation Commission for the consideration hereinafter expressed may grant permits and issue licenses to seine for the common species of fish such as buffalo and catfish in water west of the Mississippi River, within seventy (70) miles of salt water, and in Lakes Poston and Phelps in Bossier Parish, Grand Lake in St. Mary Parish, all lakes and bayous in Catahoula Parish, all lakes in Terrebonne Parish, Lake Verret in Assumption Parish, or in any other lakes, streams, bayous or lagoons of this State when in the opinion of the Conservation Commission the granting of such permits and the issuing of such licenses may not be detrimental to the interests of the State, and under suitable rules and regulations. Said licenses and permits shall not be issued except upon the payment of twenty-five dollars (\$25.00) per annum for each seine measuring less than three hundred (300) feet in length; fifty dollars (\$50.00) per annum for each seine measuring over three hundred (300) feet in length and less than six hundred (600) feet in length; and one hundred dollars (\$100.00) per annum for each seine measuring over six hundred (600) feet in length; provided any license or permit may be revoked or recalled by the Commission whenever it is shown by fish experts that the seining of fish thereunder is detrimental to the game fish resources of the State as determined by the Conservation Commission.

The prohibition in this section shall not apply to the use of minnow seines or small shrimp seines for the sole and only purpose of catching minnows or shrimp for bait.

#### **WHOLESALE BUYING OR SHIPPING LICENSES.**

**Sec. 34.** (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any resident firm or corporation to engage in the business of wholesale buying or shipping of fresh water fish other than game fish, unless he or they shall have first secured an annual license from the Department of Conservation on the following basis:

Dealers buying or shipping less than 50 barrels per month .....	\$ 5.00
More than 50 and less than 100 barrels per month .....	15.00
More than 100 and less than 150 barrels per month .....	25.00
More than 150 and less than 200 barrels per month .....	30.00
More than 200 and less than 250 barrels per month .....	40.00
More than 250 barrels per month .....	50.00

#### **LICENSES FOR NON-RESIDENTS.**

**Sec. 35.** (As amended by Act 106, 1918). Be it further enacted, etc:

That it shall be unlawful for any unnaturalized foreign-born resident or for any non-resident firm or corporation to engage in the business of wholesale buying or shipping of fresh water fish other than game fish, unless he or they shall have first secured an annual license from the Department of Conservation on the following basis:

Dealers or buyers shipping less than 50 barrels per month .....	\$ 25.00
More than 50 and less than 100 barrels per month .....	40.00
More than 100 and less than 150 barrels per month .....	55.00
More than 150 and less than 200 barrels per month .....	70.00
More than 200 and less than 250 barrels per month .....	85.00
More than 250 barrels per month .....	150.00

Each and every person holding or operating under a license issued by the Department under the provisions of this section or of Section 34 of this act shall, on or before the 5th day of each month, furnish the Department with a statement duly sworn to by the person to whom the license is issued setting forth and showing in detail the number of fresh water fish, the several species or kinds thereof and the weight in pounds of each species or kinds of fresh water fish purchased and shipped by the party making the report or statement during the immediately preceding month. Any person failing to make the statement herein required within the time and in the manner named shall be deemed guilty of a misdemeanor and upon conviction shall be punished under the provisions of this Act.

That the license fee provided by this section and Section 34 of this act shall be paid for on the basis of the greatest number of barrels of fish that any person, firm, or corporation may buy or ship during any one month of any one fiscal year commencing July 1st and ending on the following June 30.

#### **CARGO LICENSE TAX.**

**Sec. 36.** (As amended by Act 106, 1918). Be it further enacted, etc., That vessels purchasing fresh water fish to make up a cargo shall procure an annual license from the Department of Conservation permitting the conduct of such business, which shall be graded upon the tonnage of the boat employed on the following basis, to-wit: For an open skiff if propelled by a gasoline engine, the license shall be five dollars (\$5.00) per annum. For a boat which does not exceed five tons, the license shall be twenty dollars (\$20.00) per annum; where the tonnage is more than five tons and not exceeding ten tons, the license shall be thirty dollars (\$30.00) per annum; where the tonnage exceeds ten tons, the license shall be forty dollars (\$40.00) per annum; and every such licensed vessel shall carry on

board a suitable book in which a daily record shall be made of all the fish purchased, giving the date of purchase, the name of the person or vessel from which purchased and the quantity of fish purchased, which said record shall at all times be open to the inspection of the officials of said Department and extracts therefrom, shall be furnished said Department whenever required. Each and every person holding and operating under a license issued by the Department under the provisions of this section shall on or before the 5th day of each month furnish the Department with a statement duly sworn to by the party to whom the license is issued setting forth and showing in detail the number of fresh water fish purchased, the name of the person, firm, or corporation from whom or from which purchased by the party making the report or statement during the immediately preceding month. Any person failing to make the statement herein required within the time and in the manner named shall be guilty of a misdemeanor and upon conviction shall be punished under the provisions of this Act.

**CLOSED SEASON AND SIZE LIMIT ON BUFFALO FISH AND CAT FISH.**

Sec. 37. (As amended by Act 47, 1914, p. 111). Be it further enacted, etc., That it shall be unlawful for any person to set or draw any seine, hoopnet, trotline, bushline, or setline, for the purpose of catching buffalo fish between the 15th day of February and the 15th day of April, and any paddle-fish, commonly called spoon-bill cat between the 1st day of January and the 15th day of July; and any species of fresh water catfish between the 15th day of May and the 15th day of July.

No buffalo fish or fresh water catfish less than twelve inches in length shall be had in possession, nor shall any paddle-fish (or spoon-bill cat) be had in possession which does not contain roe suitable to be manufactured or converted into caviar.

Any such buffalo or fresh water catfish of less size than above specified or any such paddle-fish not containing roe as above specified, must be immediately returned to the waters.

**NON-SALE OF GAME FISH.**

Sec. 38. (As amended by Act 47, 1914, p. 111). Be it further enacted, etc., That it shall be unlawful for any person to sell, exchange, expose, offer for sale, or exchange, or have in possession for sale, any black bass, commonly called green trout, or white or yellow bass, commonly called striped bass or barfish; or crappy, commonly called sac-a-lait, or white perch, or any species of perch and sunfish.

**RESTRICTION OF SALE.**

Sec. 39. (As amended by Act 106, 1918). Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to sell, expose, offer for sale, or exchange, have in possession for sale, or keep in cold storage, either for himself or for others, any species of fresh water fish, or any part thereof, in their fresh state, during the close season noted herein, irrespective of the time when, or place where, such fish may have been killed or caught. Provided that fish caught during the open season may be had in possession for five (5) days after the end of the said open season. Any fish held in possession contrary to the provisions of this Section or Section 38 of this Act may be confiscated by the Department of Conservation through any of its officers, inspectors, or agents.

Sec. 40. Be it further enacted, etc., That it shall be unlawful for any person to catch or kill any black bass, commonly called green trout, white and yellow bass, commonly called striped bass or barfish, crappy, commonly called sac-a-lait or any species of perch and sunfish, except by means of rod, hook and line, having not more than five (5) sets of hooks, or a hand-line having not more than five (5) sets of hooks, or a trolling line with spoon hook or other artificial bait attached thereto. Any bass shorter

than eight (8) inches must not be had in possession. All bass under that size which may be caught in this manner must be immediately returned to the water, and all bass, crappy, perch and sunfish caught in seines or hoopnets must be immediately returned to the water uninjured.

#### **REGULATION OF SHIPMENTS.**

Sec. 41. Be it further enacted, etc., That it shall be unlawful to ship, carry, transport, or offer for shipment, within or without the State, any package or barrel containing dead fish, unless said package or barrel is plainly and clearly marked with the name of the consignor and consignee, with an itemized statement of the number of pounds of fish, and the names and the species contained therein. Any package or barrel otherwise shipped, carried or offered for shipment, together with the contents thereof, may be confiscated by any conservation agent or duly authorized officer.

#### **REGULATION OF SEINES AND OTHER NETS.**

Sec. 42. Be it further enacted, etc., That rules and regulations not inconsistent with the provisions of this act relating to the use of seines, hoop nets, trot lines, bush lines, trow-lines, or set-lines, in the waters of the State may be adopted and promulgated by the Conservation Commission.

#### **SEIZURE OF UNLICENSED TACKLE.**

Sec. 43. Be it further enacted, etc., That all unlicensed seines set or used in or upon any of the waters or shores thereof, or islands of the State, are hereby declared to be public nuisances and may be seized by any Conservation agent.

#### **PROHIBITED TACKLE.**

Sec. 44. Be it further enacted, etc., That it shall be unlawful for any person to have in possession any jack or head or other light, fyke-net gill-net, or trammel-net. Possession of said article shall be prima facie evidence that the same is kept for unlawful use and they may be seized by any officer authorized to enforce the fish laws.

#### **PERMANENT MEANS OF TAKING FISH.**

Sec. 45. (As amended by Act 47, 1914, p. 111.) Be it further enacted, etc., That it shall be unlawful for any person to place, build, erect, fasten to stakes, floats or buoys, or use any gill-nets, trammel-nets, fyke-nets or any permanently set means for taking fish in the waters of the State.

#### **FISH OR TACKLE AS EVIDENCE OF VIOLATIONS.**

Sec. 46. Be it further enacted, etc., That in all cases of arrest for violation of the provisions of this act, the possession of the fish or nets, or seines, or lines, or the possession or operation of any other device herein prohibited shall be prima facie evidence of the violation of this act.

#### **TAKING FISH FOR CULTURAL PURPOSES.**

Sec. 47. Be it further enacted, etc., That the Conservation Commission may take fish of any kind, when, where, and in such manner as may be necessary, for the purpose of science and of cultivation and distribution, and they may grant written permits to other persons for the same purposes, and may introduce or permit to be introduced any kind of fish into any waters. They may, after a hearing, set apart, for a term not exceeding ten (10) years, any waters in the State for the purpose of propagation, or for the use of the United States Bureau of Fisheries. The order setting apart such waters shall be recorded in the Registry of Deeds of the parish in which they are situated. They may erect and maintain such fixtures as are necessary for the purpose of propagation and maintenance.

#### **TRESPASS ON PROPERTY IN CHARGE OF COMMISSION.**

Sec. 48. Be it further enacted, etc., That it shall be unlawful for any person to wilfully enter in or upon any building or other structure, or any

area of land or water, set apart and used by or under the authority of the Conservation Commission for conducting scientific experiments or investigations, or for the culture, dissemination and distribution of fish, birds or game, after said Commission has printed notices of such occupation and use and the purposes thereof, to be placed in a conspicuous position adjacent to any such areas of land or water, or upon any such building or other structure, or to wilfully and maliciously injure or deface any such building or other structure or any notice posted as aforesaid, or injure or destroy any property used in such experiments or investigations, or to otherwise interfere therewith.

**PURCHASE OF SPAWN BY COMMISSION.**

**Sec. 49.** Be it further enacted, etc., That the Conservation Commission may purchase from persons, firms or corporations, fish roe or fish eggs, giving in exchange or consideration therefor, a percentage of the young fish hatched or produced at any of the fish hatcheries of the State from the eggs so purchased; and the placing of such young fish in waters, on the land of such person, firms or corporations, shall not be deemed a stocking of such waters with fish by the State.

**INTRODUCTION OF SPAWN AND FISH.**

**Sec. 50.** Be it further enacted, etc., That no spawn or fish of any species from without the State shall be liberated within the State, except upon written permission of the Conservation Commission.

**RESTOCKING OF PUBLIC WATERS.**

**Sec. 51.** Be it further enacted, etc., That the Conservation Commission, upon the petition of the Police Jury of a parish, may stock the waters of any stream, bayou, lagoon, lake or river, with such fish as they judge to be best suited to such waters. The Commission may thereupon prescribe for a period not exceeding three years such reasonable regulations relative to the fishing in such streams and tributaries as they deem to be for the public interest, and shall cause such regulations to be enforced.

**SPECIAL CLOSED SEASON ON FISH.**

**Sec. 52.** Be it further enacted, etc., That whenever they deem it for the best interest of the State, the Conservation Commission may entirely prohibit the taking of any kind of fresh water fish, in any part of the State, for a series of years not exceeding three. They may adopt, and from time to time modify or repeal such needful rules and regulations not contrary to the laws of the State, as they may deem necessary or proper for the protection and preservation of the fish of the State, in conformity with the provisions of this act.

**OBSTRUCTION OF STREAMS.**

**Sec. 53.** Be it further enacted, etc., That it shall be unlawful for any person to obstruct, by means of any rack, screen, wire or otherwise, any bayou, lagoon, lake, bay, river, or other body of water, to prevent the passage of fish protected by law.

**OWNERSHIP OF FISH IN CONFINEMENT.**

**Sec. 54.** Be it further enacted, etc., That all fish propagated and maintained in confinement shall be the property of the person so propagating and maintaining them, provided that they shall not be sold during the closed season for similar fish.

**"PUDDLING" OF WATERS.**

**Sec. 55.** Be it further enacted, etc., That it shall be unlawful for any person to muddy or "puddle" any waters for the purpose of taking fish thereby.

**SCREENING OF INTAKE PIPES.**

Sec. 56. Be it further enacted, etc., That all "intake pipes" used for the purpose of taking up water for irrigating lands shall be provided with a "screen" to keep fish from being taken into said intake pipes and subsequently pumped out on the land. Said "screen" shall be made of four by four (4x4), and shall not be less than ten (10) feet square; the outer side of same to be covered with wire screening of not more than one-quarter inch mesh; provided that this shall not apply to intake pipes in the Mississippi River.

**DYNAMITING AND POLLUTION OF STREAMS.**

Sec. 57. Be it further enacted, etc., That in order to prevent the killing of fish, it shall be unlawful for any person to throw or place dynamite, lyddite, gunpowder, cartridge, cannon crackers, or any other explosive, or to throw or place acids, or lime which has not been used in manufacturing or commercial processes, india berries, sawdust, green walnuts, walnut leaves, or any other deleterious substance, into, or on, or where it will run into, the waters of the bayous, lagoons, ponds, lakes, bays, rivers, sound, or in the Gulf of Mexico, within the territory of jurisdiction of this State.

**PENALTIES.**

Sec. 58. Be it further enacted, etc., That any person violating the provisions of the foregoing section shall be deemed guilty of a misdemeanor, and shall on conviction thereof pay the costs of the prosecution and be imprisoned in the parish jail for not less than five (5) days and more than twelve (12) months, at the discretion of the court and subject to work on the public roads as provided by law, and in the event of the costs not being paid, an additional day for each day of the jail sentence shall be decreed by the court.

**PROTECTION OF DIAMOND BACK TERRAPIN.**

Sec. 59. Be it further enacted, etc., That no person within the State of Louisiana shall kill, catch, have in possession, or attempt to kill, catch, or hold in possession, living or dead, any diamond-back terrapin, or purchase or offer for sale any such terrapin after same has been killed or caught, except as otherwise permitted.

**SIZE LIMIT OF TERRAPINS.**

Sec. 60. (As amended by Act 47, 1914, p. 111). Be it further enacted, etc., That it shall be unlawful for any person to kill, snare, trap, or in any way take, capture, annoy or destroy, any diamond-back terrapin of a less size than five and one-half ( $5\frac{1}{2}$ ) inches in length, measuring the length of the lower, or under shell, nor shall any diamond-back terrapin be caught or sold between the 15th day of April and the 15th day of June.

**OWNERSHIP OF TERRAPINS IN CONFINEMENT.**

Sec. 61. Be it further enacted, etc., That diamond-back terrapin artificially propagated and maintained shall be the property of the person propagating and maintaining them. Any person, firm or corporation legally engaged in their culture or maintenance, or who has legal ownership of them by purchase or otherwise, may keep them in his or their own waters at pleasure, may have and keep them in their own possession for purposes properly connected with said culture and ownership and maintenance, and may at all times sell, or otherwise dispose of them, but shall not sell them for food at seasons during which their capture or possession is prohibited by this Act.

**SHIPMENT OF TERRAPINS.**

Sec. 62. Be it further enacted, etc., That all barrels, boxes and packages, containing diamond-back terrapin, when shipped without the State, shall be plainly and clearly marked with the name of the consignor and consignee, with a statement of the number of terrapin contained therein, and

said barrels, boxes and packages shall be so constructed as to plainly show their contents. All barrels, boxes and packages otherwise shipped may be confiscated, together with the contents thereof, by any Conservation Agent or other duly authorized officer. Any person violating the provisions of the sections of this act relative to diamond-back terrapin shall be guilty of a misdemeanor, and shall, on conviction thereof, pay the costs of prosecution and be fined not less than five dollars nor more than one hundred dollars, or be imprisoned in the parish jail for not less than five days nor more than three months, or be subject to both fine and imprisonment, at the discretion of the court.

**TERRAPIN DEALERS' LICENSE.**

**Sec. 63.** (As amended by Act 106, 1918.) Be it further enacted, etc., That any person, firm, or corporation of this State engaged in the buying and selling of diamond-back terrapin shall secure from the Department of Conservation an annual license, the charge for which shall be twenty-five dollars (\$25.00).

Any person, firm, or corporation resident of this State engaged in buying, selling, and shipping of diamond-back terrapin shall secure from the Department of Conservation an annual license, the charge for which shall be one hundred dollars (\$100.00), any person, firm, or corporation not a resident of this State, or any unnaturalized foreign-born resident of this State, engaged in buying, selling, or shipping diamond-back terrapin shall secure from the Department of Conservation an annual license, the charge for which shall be two hundred dollars (\$200.00).

**DEFINITIONS AND CONSTRUCTIONS.**

**Sec. 64.** (As amended by Act 106, 1918.) Be it further enacted, etc., That the following definitions and constructions are made part of and shall be used in construing the meaning and purpose of this Act, to-wit: "Commission" and "Conservation Commission" is synonymous with Department of Conservation. "Person" includes co-partnership, joint stock company or corporation. "Open Season" is the time during which fish, fowl, birds and wild quadrupeds may be taken. "Closed Season" is the time during which fish, fowl, birds and wild quadrupeds cannot be taken. "Game" includes wild game, domestic game, and imported game. "Wild Deer" includes all deer not lawfully held in private ownership in a preserve wholly enclosed by a fence. "Fawns" are declared to be young deer with spots thereon. "Plumage" includes any part of the feathers, head, wings or tail of any birds, and wherever the word occurs in this act reference is had to plumage of birds coming from without the State, as well as that obtained within the State, but it shall not be construed to apply to feathers of game birds, birds of paradise, ostrich, domestic fowl or domestic pigeons, or birds not protected by law. Where lands are referred to as "enclosed" or "wholly enclosed," the boundary may be indicated by wire, ditch, hedge, fence, roadway, water or by any visible or distinctive manner which indicates a separation from the surrounding contiguous territory. "Take" includes pursuing, shooting, hunting, killing, catching, trapping, snaring, and netting fish or game, and all lesser acts. Wherever in this Act the possession, purchase or sale of game, or the flesh of any animal, or bird is prohibited, reference is had equally to such game or flesh coming from without the State, and to that taken within the State. A "wild quadruped," as referred to in this Act, shall be taken to include any four-footed animal and four-footed reptiles, including fur-bearing animals, game animals, alligators and terrapins. A "barrel" is any receptacle capable of containing not exceeding two and three-quarter (2½) bushels. If its capacity be less, it shall nevertheless be considered and treated and paid for as a barrel. A license fee, provided by either Section 34 or 35 of this Act must be paid for on the basis of the greatest number of barrels of fish that any person, firm or corporation may buy or ship during any one month of any one fiscal year, commencing July 1 and ending on the following June 30th. "Hoopnets" must be made only of twine with a mesh not less than 6 inches stretched or three inch bar between knot and knot. The

use of hoopnets or other similar devices made of wire is prohibited. Any person violating this provision shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided in this Act.

#### **GENERAL PENALTIES.**

Sec. 65. Be it further enacted, etc., That any person violating any of the provisions of this Act, where a punishment has not been otherwise, provided, shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be liable to a fine of not less than twenty-five dollars (\$25.00), nor for more than one hundred dollars (\$100.00) or be subject to imprisonment for not less than thirty (30) days, or be liable to both fine and imprisonment in the jurisdiction of the court.

#### **REPEALING CLAUSE.**

Sec. 66. Be it further enacted, etc., That all laws or parts of laws in conflict herewith, be and the same are hereby repealed and especially Act 132 of 1910.

### **PROTECTION OF NON-GAME BIRDS, ETC.**

**Act 83 of 1918, p. 121.**

#### **TITLE.**

AN ACT for the protection of birds, other than game birds, and their nests and eggs; specifying which species are non-game birds; providing for the establishment of bird breeding island or other sanctuaries; prohibiting trespass on bird breeding islands or sanctuaries; prohibiting trapping; providing that such birds may be killed under certain conditions; providing for the punishment of violators thereof.

#### **BIRDS DECLARED PROPERTY OF STATE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all wild non-game birds, both resident and migratory, in this State shall be and are hereby declared to be the property of the State.

#### **WHAT BIRDS CONSIDERED NON-GAME.**

Sec. 2. Be it further enacted, etc., That for the purpose of this Act, the following and all others not named by law as game birds shall be considered non-game birds:

Grebes, loons, gulls, terns, skimmers, petrels, tropic birds, gannets, anhingas, pelicans, man o'war birds, swans, flamingoes, roseate spoonbills, storks, ibises, herons (except night herons or gros becs), bitterns, egrets, cranes, hawks, eagles, owls, paroquet kingfishers, killdeers, and song and insectivorous birds including bobolinks, catbirds, chickadees, cuckoos, flickers, fly-catchers (caille), grosbeaks, bluebirds, hummingbirds, kinglets, kingbird (bee martins), martins, meadowlarks, nighthawks (bullbats), nut-hatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos (grasset), warblers, waxwings, whippoor-wills, woodpeckers, and wrens, cardinals, mockingbirds, bunting (pops), and all other perching birds which feed entirely or chiefly on insects.

#### **ILLEGAL POSSESSION OR KILLING.**

Sec. 3. Be it further enacted, etc., That it shall be unlawful within the State of Louisiana to kill, catch, or have in possession living or dead, any resident or migratory wild bird other than a outlaw or game bird, or purchase, offer, or expose for sale any such wild non-game bird, after it has been killed or caught except as permitted by this Act.

#### **SALE OF PLUMAGE, AIGRETTE, ETC., FORBIDDEN.**

Sec. 4. Be it further enacted, etc., That no part of the plumage, aigrettes, skin, or body of any bird, protected by this act shall be sold or had in possession for sale, irrespective of the time when or the place where such

bird may have been killed or caught; that it shall be unlawful for any person within the State of Louisiana to take or destroy, or attempt to take or destroy the nest or the eggs of any wild bird other than an outlaw bird or have such nest or eggs in his possession except as permitted by this Act.

#### **PREVENTING TRESPASS.**

**Sec. 5.** Be it further enacted, etc., That any person or society organized under the laws of this State, desiring to prevent trespass upon any land, enclosed or otherwise, or upon any island or other land dedicated as a wild bird sanctuary, within the boundaries of the State of Louisiana, dedicated to the purpose of breeding and protecting birds protected by this Act shall after permission has been obtained from the Department of Conservation, post same with suitable signs, located not less than every linear one-half mile along the boundary lines of said land or island, and shall file with the Department of Conservation an annual report of their activities. That it shall be unlawful for any person to trespass upon any such land or island. Any person or persons found so doing may be arrested on sight by any conservation agent or other officer authorized by law. In the event of a conviction, said person or persons shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) or be imprisoned in the parish jail for not less than ten (10) days nor more than thirty (30) days, or be both fined and imprisoned, at the discretion of the court, and shall further be liable to the penalties imposed by law for the killing of birds or game, or the taking or attempting to take eggs, or disturbing nests.

#### **USING TRAP, CAGE, ETC., FORBIDDEN.**

**Sec. 6.** Be it further enacted, etc., That it shall be unlawful for any person within the State of Louisiana, at any time to use or set a trap, cage, net, or other device for the purpose of catching wild birds. Any person or persons found so doing may be arrested on sight by any conservation agent or other officer authorized by law. In the event of a conviction, said person or persons shall each be fined not less than five dollars (\$5.00) nor more than ten dollars (\$10.00), or be imprisoned in the parish jail for not less than five (5) days nor more than ten (10) days or be both fined and imprisoned.

All conservation agents or other officers are hereby given authority to confiscate all traps, cages, nets, or other devices which they may find set or being used for the purpose of catching wild non-game birds, and it shall be the duty of said officers to liberate any birds found in possession contrary to the provisions of this Act, but shall not prevent any householder from keeping one resident and one migratory bird in a cage as a pet, provided it is not kept for sale, and that it shall not be shipped beyond the confines of the State.

#### **SHIPPING, TRANSPORTING, ETC., ILLEGAL.**

**Sec. 7.** Be it further enacted, etc., That it shall be unlawful for any person or persons, or any corporation acting as a common carrier, its officers, agents, or servants to receive for shipment, ship, carry, take or transport, either within or beyond the confines of the State, any resident or migratory wild non-game bird except as permitted by this Act.

#### **COLLECTING BIRDS, ETC., FOR SCIENTIFIC PURPOSES.**

**Sec. 8.** Be it further enacted, etc., That certificates may be granted by the Department of Conservation to any properly accredited person of the age of fifteen years and upward, permitting the holder to collect birds, their nests or eggs, for strictly scientific purposes only. In order to obtain such certificates the applicant for the same must present to the Department of Conservation endorsements from two well-known ornithologists one of whom shall be a resident of the State, certifying to the good character and fitness of said applicant to be entrusted with such privilege, and must pay to said department one dollar (\$1.00) to defray the necessary expense attending the granting of such certificate.

On proof that the holder of such certificate has captured or killed any bird, or taken the nest or eggs of any bird for other than scientific purposes, the certificate shall become void, and he shall be liable to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or imprisonment for not less than ten (10) days nor more than thirty (30) days, or both fine and imprisonment.

The certificates authorized by this Act shall expire on the 31st day of December of the year issued and shall not be transferable, and may be withheld or cancelled at the discretion of the Commissioner of Conservation. At the expiration of said permit, the holder shall file with the Department of Conservation a complete list stating the species and number of birds collected under it.

#### BIRDS WHICH ARE NOT PROTECTED.

Sec. 9. Be it further enacted, etc., That the English sparrow, cormorants (nigger geese or water turkeys), Cooper's hawk, duck hawk, sharp-skinned hawk, and great horned owl are not included among the birds protected by this Act.

This Act does not prevent any person from killing crows, grackles (chocks or crow-blackbirds), or red-winged or other blackbirds on his premises when destructive to crops, provided that said birds are not sold or offered for sale or shipped out of the State; nor does it prevent the killing of kingfishers found nesting in the levees of the State, provided said birds are not afterwards sold or offered for sale or shipped out of the State.

#### VIOLATIONS; PENALTY.

Sec. 10. Be it further enacted, etc., That any person violating any of the provisions of this Act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor, and shall be liable to a fine of not less than five dollars (\$5.00) nor more than ten dollars (\$10.00), or be imprisoned in the parish jail for not less than five (5) days nor more than ten (10) days, or be both fined and imprisoned, for each bird, living or dead, or part of a bird, or nest, or set of eggs, or part thereof, taken, killed, captured, possessed, sold, offered for sale, shipped carried, or transported in violation of this Act.

#### CELEBRATION OF BIRD DAY.

Sec. 11. Be it further enacted, etc., That the State and Parish Boards of Public Education are directed to provide for the celebration by all public schools of "Bird Day", a date that shall be set by the Commissioner of Conservation. On the recurring anniversary days, suitable exercises are to be engaged in and lessons on the economic and esthetic value of the resident and migratory birds of the State are to be taught by the teachers to their pupils.

#### REPEALING CLAUSE.

Sec. 12. Be it further enacted, etc., That all the Acts or parts of Acts, particularly Act 198 of 1906, inconsistent with or contrary to the provisions of this Act are hereby repealed.

### SALT WATER FISH, SHRIMP AND OTHER SEA FOOD.

**Act 183 of 1912, p. 328.**

#### TITLE.

AN ACT to prohibit the use of fish drying platforms during the months of May, June and July; to limit the length of certain fish to be taken and had in possession for sale; to prohibit interference with persons engaged in the lawful fishing and sale of salt water fish; and to fix the licenses to be paid by salt water fishermen; and to prescribe penalties for the violation of provisions herein contained.

**DRYING FISH, WHAT SIZE PERMITTED.**

Section 1. (As amended by Act 53, 1914, p. 125.) Be it enacted by the General Assembly of the State of Louisiana, That it shall be and is hereby declared unlawful for any person engaged in commercial fishing to dry fish measuring less than eight inches in length for commercial purposes.

**ILLEGAL POSSESSION.**

Sec. 2. Be it further enacted, etc., That it shall be unlawful for any person to take or to have in his possession for sale at any time any salt water fish under the length of eight inches other than bream, croakers or sea-perch.

**IMMUNITY FROM MOLESTATION.**

Sec. 3. Be it further enacted, etc., That no person engaged in the fishing of salt water fish for commercial purposes shall be molested or interfered with either on the water or at the docks of this State, so long as they respect the prohibition herein contained, and possess the license herein provided.

**VIOLATION; PENALTY.**

Sec. 4. (As amended by Act 84, 1918.) Be it further enacted, etc., That whoever shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be liable to a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), or be subject to imprisonment for more than thirty (30) days, or be liable to both fine and imprisonment at the discretion of the court.

**SEINING WITHOUT LICENSE.**

Sec. 5. (As amended by Act 84, 1918.) Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to set or draw, or attempt to set or draw any seine of forty (40) fathoms and upwards in length, in any of the waters of the State for the purpose of catching salt water fish, unless an annual license fee has been thereon at the rate noted herein, and is at all times had in possession to be shown on demand of any duly authorized officer, said annual license to be issued by the Department of Conservation and the proceeds thereof to be turned into the State Treasury and placed to the credit of said Department. On all seines from 40 fathoms to 200 fathoms in length, ten and 00/100 dollars (\$10.00); from 200 fathoms to 300 fathoms in length, fifteen and 00/100 dollars (\$15.00); over 300 fathoms in length, fifteen and 00/100 dollars (\$15.00) and in addition thereto two and 00/100 dollars (\$2.00) for each additional twenty (20) fathoms or fraction thereof.

**REPEALING CLAUSE.**

Sec. 6. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**PROTECTION OF SALT WATER SHRIMP, ETC.**

*Act 86 of 1918, p. 126.*

**TITLE.**

AN ACT for the protection of salt water shrimp; to provide the manner in which said crustaceans may be caught; to fix the seasons in which they may be caught; to authorize the issuance of licenses to seine, and to provide penalties for the violation of this Act.

**SALT WATER SHRIMP DECLARED PROPERTY OF STATE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all salt water shrimp found in waters of this State shall be and are hereby declared to be the property of the State.

**SALE, ETC., OF SHRIMP.**

Sec. 2. Be it further enacted, etc., That no person within the State of Louisiana shall catch or have in possession, living or dead, any salt water shrimp, or part thereof, or purchase, sell, or offer for sale, any such shrimp, or part thereof, after same have been caught, except as otherwise permitted.

**SEINING OF SHRIMP PROHIBITED EXCEPT BY PERMISSION.**

Sec. 3. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to catch salt water shrimp by using a seine which exceeds forty (40) fathoms in length, or other device, except by permission of the Department of Conservation as to such devices; provided the using of trawls in any of the inside waters of the State at any time shall be prohibited when in the opinion of the Department of Conservation the using of said trawls in the inside waters of the State for taking salt water shrimp is detrimental to the interests of the State, except as may be provided herein. And provided further, that it shall be unlawful for any person to interfere with, molest, hinder, prevent, or attempt to prevent any fisherman, dealer, or peddler engaged in the catching, distribution, sale, or delivery of salt water shrimp from free access, distribution, sale, or delivery of salt water shrimp to, at, upon, or from the public docks, wharves or markets or any other place within the State in order to unload or deliver salt water shrimp.

**CLOSED SEASON.**

Sec. 4. Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to seine, catch, or attempt to catch any salt water shrimp between the 1st day of December and the 15th day of February inclusive, and between the 1st day of June and the 15th day of July of any year, both inclusive; provided, that the close seasons herein provided for shall not apply to the seiing and catching of salt water shrimp from any of the waters of the State to be used only in their fresh state, that is neither dried nor canned, at local markets or for local domestic purposes or consumption, nor to the catching of salt water shrimp by trawls from any of the outside waters of this State, to be used for either canning or drying purposes, on a permit and license issued by the Department of Conservation, when in the opinion of the said Department the shrimp which are to be canned or dried have been caught by trawls and from outside waters only of this or any other State, and provided said shrimp do not measure less than four (4) inches in length, and provided further, that all salt water shrimp seined or caught from the inside waters of the State during the close seasons herein provided for may be purchased, sold, or exchanged or possessed for sale or consumption at local markets or for local domestic purposes, in their fresh state only, and those caught by trawls from outside waters may be purchased, sold, exchanged, or possessed for sale or consumption either in their fresh, canned, or dried state, at any time during the close seasons herein provided for, and provided further, that no shrimp seine or other device with a mesh of less than three-fourths of an inch square shall be used.

**CERTAIN SALES, ETC., PERMITTED DURING CLOSE SEASON.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to sell, exchange, expose, offer for sale or exchange, or have in possession for sale either for himself or others, any salt water shrimp that have been caught from the inside waters of the State during the close seasons herein provided for, except those that are to be used in their fresh state at local markets or for local domestic purposes or consumption; provided that salt water shrimp measuring not less than four (4) inches in length and which have been caught by trawls from the outside waters of this or any other State during the close seasons herein provided for, or seined or caught during the open seasons may be sold, exchanged, exposed, offered for sale or exchange or had in possession for sale, either in their fresh, canned or dried state during the close seasons noted herein; provided further that shrimp caught during the open seasons may

be had in possession for sale in their fresh state for five (5) days after the end of said open seasons.

**RULES OF DEPARTMENT OF CONSERVATION.**

Sec. 6. Be it further enacted, etc., That rules and regulations not inconsistent with the provisions of this Act, relating to the use of seine or other device in the waters of the State, may be adopted and promulgated by the Department of Conservation of Louisiana.

**LICENSE FEE FOR SEINING, ETC.**

Sec. 7. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation, resident or domiciled in this State to set or draw, or attempt to set or draw any seine of forty (40) fathoms and upwards in length or to set or draw, or attempt to set or draw any other device, in any waters of the State for the purpose of catching salt water shrimp, unless an annual license fee has been paid thereon at the rate noted herein, and said annual license is at all times to be had in possession to be shown on demand of any duly authorized officer, and to be issued by the Department of Conservation and the proceeds thereof to be turned into the State Treasury and placed to the credit of said Department. On all seines from 40 fathoms to 200 fathoms in length, ten and 00/100 dollars (\$10.00); from 200 to 300 fathoms in length, fifteen and 00/100 dollars (\$15.00); over 300 fathoms in length, fifteen and 00/100 dollars (\$15.00) and addition thereto two and 00/100 dollars (\$2.00) for each additional twenty (20) fathoms or fraction thereof; provided that should any salt water fish or crustacean happen to be caught in said seine or seines drawn for the purpose of catching salt water shrimp, no separate or additional license shall be exacted therefor; provided further that in respect to other devices the Department of Conservation be authorized to fix annual licenses on a reasonable basis, as experience and practice may develop, and in accord with the licenses herein above fixed for seines.

**RESTRICTIONS IMPOSED ON UNNATURALIZED FOREIGNERS.**

Sec. 8. Be it further enacted, etc., That it shall be unlawful for any unnaturalized foreign-born resident or any non-resident, firm or foreign corporation or firm or corporation not domiciled within this State, to set or draw, or attempt to set or draw any seine of forty (40) fathoms and upwards in length or to set or draw or attempt to set or draw any other device in any waters of the State for the purpose of catching salt water shrimp, unless an annual license fee has been paid thereon at the rate noted herein, said annual license is at all times to be had in possession to be shown on demand of any duly authorized officer, and to be issued by the Department of Conservation and the proceeds thereof to be turned into the State Treasury and placed to the credit of said Department. Any evasion of this section by simulated sale, agreement, understanding or any other manner shall subject the owner of said seine to a forfeiture of the license in addition to the penalty prescribed in this Act for violation thereof. On all seines from 40 fathoms to 200 fathoms in length, fifty and 00/100 dollars (\$50.00); from 200 fathoms to 300 fathoms in length, seventy-five and 00/100 dollars (\$75.00); over 300 fathoms in length seventy-five and 00/100 dollars (\$75.00) and in addition thereto five and 00/100 dollars (\$5.00) for each additional twenty (20) fathoms or fraction thereof; provided that should any salt water fish or crustacean happen to be caught in said seine or seines drawn for the purpose of catching salt water shrimp, no separate or additional license shall be exacted therefor from any unnaturalized foreign-born resident or from non-resident firm or foreign corporation or firm or corporation not domiciled within the State; provided further that in respect to other devices the Department of Conservation be authorized to fix annual licenses on a reasonable basis, as experience and practice may develop, and in accord with the licenses hereinabove fixed for seines.

**LICENSE TAGS FOR SEINES.**

Sec. 9. Be it further enacted, etc., That all seines forty (40) fathoms and upwards in length or other device, set or used for the purpose of catch-

ing salt water shrimp in or upon any of the waters of the State, must have the official license tag attached thereto; said tag to be of metal and to be issued by the Department of Conservation and to be furnished without extra charge upon the payment of the license fee at the rate noted herein.

#### **PENALTIES.**

Sec. 10. Be it further enacted, etc., That any person, firm, corporation or common carrier, their agents and officers, violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor and shall on conviction thereof, pay the costs of the prosecution and be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or be imprisoned in the parish jail not less than five (5) days nor more than thirty (30) days, or both fine and imprisonment, at the discretion of the court, for each offense, and in addition thereto the boats, seines or other devices used in such violation may be confiscated by order of the court.

#### **DISPOSITION OF FINES COLLECTED.**

Sec. 11. Be it further enacted, etc., That all fines collected under the provisions of this Act shall be paid to the Treasurer of the school funds for the use of the public schools of the parish in which the violation occurred; the sheriff to receive ten per cent for the collection of said fines turned over to the treasurer.

#### **REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws contrary to, or in conflict with this Act be and the same are hereby repealed; and Act 245 of 1910, Act 168 of 1912, Act 59 of 1914, and Act 193 of 1916 are all especially repealed.

### **PROTECTION OF CRABS.**

#### **Act 104 of 1918, p. 162.**

##### **TITLE.**

AN ACT for the protection of crabs; to provide for the title and ownership of same; to authorize the Department of Conservation to regulate the catching, taking, or killing and buying or selling; to limit common carriers, or those acting for them to the provisions of the law, and to the provisions of such rules and regulations as may be adopted by the Department of Conservation for carrying the same; to provide authority for the Department of Conservation to fix an open season during which crabs may be bought, sold, or had in possession for sale; to fix the minimum size for the different kinds of crabs which may be bought, sold, or had in possession for sale; and to adopt needful rules and regulations for their protection and propagation; to provide penalties for the violation of any of the provisions of this Act; to fix the manner in which all fines may be disposed of, and to repeal all laws or parts of laws in conflict with this Act.

##### **CRABS DECLARED PROPERTY OF STATE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the ownership and title to all crabs found in the State of Louisiana, or in the waters under the jurisdiction of the State not held by private ownership legally acquired, is hereby declared to be in the State; no crabs shall be caught, taken, or killed in any manner at any time or had in possession except the person so catching, taking, killing or having the same in possession, shall consent that the title of such crabs shall be and remain in the State of Louisiana for the purpose of regulating and controlling the use and disposition of the same after such catching, taking or killing, except that the title to such crabs legally taken shall vest in the person so taking or possessing them, subject to the restrictions and provisions of law.

**KILLING ETC., OF CRABS PROHIBITED.**

Sec. 2. Be it further enacted, etc., That no person at any time of the year shall pursue, take, wound, or kill in any manner any crabs protected by law, or buy, sell, offer or expose the same or any part thereof for sale, transport, or have the same in possession except as permitted by law.

**TRANSPORTATION PROHIBITED.**

Sec. 3. Be it further enacted, etc., That no common carrier or person in its employ while engaged in such business of common carrier shall transport any crabs protected by law, or any part thereof except as may be permitted by law.

**DEPARTMENT MAY FIX OPEN SEASON.**

Sec. 4. Be it further enacted, etc., That the Department of Conservation shall be vested with authority to fix the open season during which crabs may be bought, sold, or offered or exposed for sale, said Department of Conservation is further authorized to fix the size of the crabs which may be had in possession for sale or consumption, provided that all crabs may be caught at any time for local domestic consumption.

**COLD STORAGE PROHIBITED DURING CLOSE SEASON.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to sell, exchange, expose or offer for sale or exchange, have in possession or keep in cold storage, either for himself or others any crabs or any part thereof during the close season fixed by the Department of Conservation, irrespective of the time when or place where such crabs may have been captured or killed, except as otherwise permitted.

**SAME SUBJECT.**

Sec. 6. Be it further enacted, etc., That it shall be unlawful for any person, firm or corporation to sell, exchange, expose, or offer for sale or exchange, have in possession or kept in cold storage, either for himself or others, any crabs of a smaller size than fixed by the Department of Conservation, except as otherwise permitted.

**DEPARTMENT MAY ADOPT RULES.**

Sec. 7. Be it further enacted, etc., That the Department of Conservation may adopt needful rules and regulations, not inconsistent with the provisions of this Act, for the protection and propagation of crabs.

**PROMULGATION OF RULES, ETC.**

Sec. 8. Be it further enacted, etc., That such rules, regulations, and prohibitions as may be adopted by the Department of Conservation under the authority of this act shall be promulgated by printing and posting the same in, at, or near places of crab fishing for thirty (30) days preceding any arrest under such rules, regulations and prohibitions; otherwise no prosecution shall be had under this act; provided further that such rules and regulations shall be published by the Department of Conservation in printed form and diligently spread among those to be informed of such rules and regulations.

**VIOLATIONS; PENALTIES.**

Sec. 9. Be it further enacted, etc., That any person, firm, or corporation, or common carrier, their agents and officers, violating any of the provisions of this Act or rules and regulations promulgated thereunder, shall be deemed guilty of a misdemeanor and shall upon conviction thereof, pay the costs of the prosecution and be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

**DISPOSITION OF FINES.**

Sec. 10. Be it further enacted, etc., That all fines collected under the provisions of this Act shall be paid to the treasurer of the school fund for

the use of the public schools of the parish in which the violation occurred; the sheriff to receive ten per cent of the collection of said fines turned over to said treasurer.

#### **REPEALING CLAUSE.**

**Sec. 11.** Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with this Act be and the same are hereby repealed.

### **PROTECTION OF FROGS.**

**Act 89 of 1918, p. 134.**

#### **TITLE.**

**AN ACT** for the protection of frogs; to provide for the title and ownership of the same; to authorize the Department of Conservation to regulate the catching, taking or killing and buying or selling; to limit common carriers, or those acting for them to the provisions of the law, and to the provisions of such rules and regulations as may be adopted by the Department of Conservation for carrying the same; to provide authority for the Department of Conservation to fix an open season during which frogs may be bought, sold, or had in possession for sale; to fix the minimum size for certain different species of frogs which may be bought, sold or had in possession for sale; and to adopt needful rules and regulations for their protection and propagation; to provide penalties for the violation of any of the provisions of this Act; to fix the manner in which all fines may be disposed of, and to repeal all laws or parts of laws in conflict with this Act.

#### **FROGS DECLARED PROPERTY OF STATE.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the ownership and title to all frogs found in the State of Louisiana, or in the waters under the jurisdiction of the State not held by private ownership legally acquired, is hereby declared to be in the State; no frogs shall be caught, taken or killed in any manner at any time or had in possession except the person so catching, taking, killing, or having the same in possession, shall consent that the title of such frogs shall be and remain in the State of Louisiana for the purpose of regulating and controlling the use and disposition of the same after such catching, taking, or killing, except that the title to such frogs legally taken shall vest in the person so taking or possessing them, subject to the restriction and provisions of law.

#### **KILLING, ETC., PROHIBITED.**

**Sec. 2.** Be it further enacted, etc., That no person at any time of the year shall pursue, take, wound, or kill in any manner any frogs protected by law, or buy, sell, offer or expose the same or any part thereof for sale, transport or have the same in possession except as permitted by law.

#### **TRANSPORTATION PROHIBITED.**

**Sec. 3.** Be it further enacted, etc., That no common carrier or person in its employ while engaged in such business of common carrier shall transport any frogs protected by law, or any part thereof except as may be permitted by law.

#### **OPEN SEASON.**

**Sec. 4.** Be it further enacted, etc., That the Department of Conservation shall be vested with authority to fix the open season during which frogs may be bought, sold, or offered or exposed for sale, said Department of Conservation is further authorized to fix the size of the common bull frog (*Rana catesbeiana*) and the southern bull frog or "lake frog" (*Rana grylio*) which may be had in possession for sale or consumption.

**SALE—COLD STORAGE ETC., PROHIBITED.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to sell, exchange, expose or offer for sale or exchange, have in possession or keep in cold storage, either for himself or others any frogs or any part thereof during the close season fixed by the Department of Conservation, irrespective of the time when or place where such frogs may have been captured or killed, except as otherwise permitted.

**SAME SUBJECT.**

Sec. 6. Be it further enacted, etc., That it shall be unlawful for any person, firm, or corporation to sell, exchange, expose, or offer for sale or exchange, or have in possession or keep in cold storage, either for himself or others any frogs of a smaller size than fixed by the Department of Conservation, except as otherwise permitted.

**PRIVATE OWNERSHIP.**

Sec. 7. Be it further enacted, etc., That all frogs propagated and maintained in confinement shall be the property of the person so propagating and maintaining them; provided that they shall not be sold during the close season fixed by the Department of Conservation; and provided further that it shall be unlawful to at any time sell or offer for sale for food any frogs having a smaller size than fixed by the Department of Conservation for sale as such, irrespective of the time when and place where such frogs may have been caught or killed.

**DEPARTMENT MAY MAKE RULES.**

Sec. 8. Be it further enacted, etc., That the Department of Conservation may adopt needful rules and regulations not inconsistent with the provisions of this Act, for the protection and propagation of frogs.

**PROMULGATION OF RULES.**

Sec. 9. Be it further enacted, etc., That such rules, regulations, and prohibitions as may be adopted by the Department of Conservation in the authority of this Act shall be promulgated by printing and posting the same in, at, or near a place or places frequented by those engaged in the catching and shipping of frogs for thirty (30) days preceding any arrest under such rules, regulations, and prohibitions; otherwise no prosecution shall be had under this Act; provided further that such rules and regulations shall be published by the Department of Conservation in printed form and diligently spread among those to be informed of such rules and regulations.

**VIOLATIONS; PENALTIES.**

Sec. 10. Be it further enacted, etc., That any person, firm or corporation, or common carrier, their agent and officers, violating any of the provisions of this Act or rules and regulations promulgated thereunder, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, pay the costs of the prosecution and be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

**DISPOSITION OF FINES.**

Sec. 11. Be it further enacted, etc., That all fines collected under the provisions of this Act shall be paid to the treasurer of the school fund for the use of the public schools of the parish in which the violation occurred; the sheriff to receive ten per cent for the collection of said fines turned over to the said treasurer.

**REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws, or parts of laws contrary to or in conflict with this Act be and the same are hereby repealed.

**PROTECTION OF ELK.****Act 46 of 1914, p. 110.****TITLE.**

**AN ACT** to authorize and empower the Conservation Commission to bring into this State, or to permit the bringing into this State, Elk or Elk kind, and to place and confine, or to have placed or confined any such Elk or Elk kind, upon any propagating ground, or upon any game preserve, or to liberate or to have the same liberated within this State; to prohibit the pursuing, hounding, taking, wounding or killing of any such Elk or Elk kind; to provide for the punishment for violations of this act, and to fix the penalties therefor, and to repeal all laws inconsistent with this Act.

**IMPORTATION OF ELK.**

Section 1. (As amended by Act 87, 1918). Be it enacted by the General Assembly of the State of Louisiana, That the Department of Conservation be and is hereby authorized and empowered to bring into this State, or to have brought into this State, or to permit to be brought into this State, Elk or Elk kind, and to have such Elk or Elk kind placed or confined upon any propagating ground, or upon any game preserve or to liberate or permit to be liberated, any Elk or Elk kind and at any point or points within this State at the discretion of the said Department of Conservation.

**CLOSED SEASON.**

Sec. 2. (As amended by Act 87, 1918). Be it further enacted, etc., That no person shall pursue, hound, take, wound, capture, kill or destroy an Elk or Elk kind until November, 1924.

**VIOLATIONS; PENALTIES.**

Sec. 3. Be it further enacted, etc., That any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined a sum of not less than twenty-five dollars and not exceeding one hundred dollars, or imprisoned for a term of not less than two months, nor more than one year, or such persons so convicted may be both fined and imprisoned at the discretion of the Court.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws or parts of laws inconsistent with or contrary to the provisions of this Act, be and the same are hereby repealed.

**GAME, FUR-BEARING AND WILD ANIMALS—TRAPPING LICENSE.****Act 293 of 1914, p. 601.****TITLE.**

**AN ACT** to levy an annual license on all persons trapping or catching fur-bearing animals for the purpose of selling their skins or dealing in same, and granting to the Conservation Commission of Louisiana the right to provide rules and regulations concerning the collection of said license, and to provide penalties for the violations of this Act.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That each and every person engaged in hunting, catching or trapping wild fur animals in Louisiana for the purpose of selling their skins, shall pay on the first day of October of each year before they begin to hunt, catch or trap said fur-bearing animals, an annual license tax of two dollars (\$2.00) to the Conservation Commission of Louisiana, provided

that all persons so hunting, catching or trapping fur-bearing animals not residents or citizens of this State shall pay an annual license tax of fifteen dollars (\$15.00).

Sec. 2. Be it further enacted, etc., That the Conservation Commission during the month of June of each year and as often thereafter as may be necessary, shall send to the tax collector of each parish of the State a book, or books, containing a regularly numbered series of licenses provided for in this Act. On the first day of each month each tax collector shall make return to the Treasurer of the State in cash, accompanied by a proper report of all licenses that shall have been issued by him, less five per centum of the sum collected, which latter amount is to be deducted by the tax collector in full payment of his services in issuing said licenses. At the same time each tax collector shall forward to the Conservation Commission a duplicate of the report sent by him to the Treasurer of the State. The Treasurer of the State shall place the amount received by him under the provision of this Act to the credit of the Conservation Fund.

## PROTECTION OF BEARS.

### Act 268 of 1910, p. 465.

#### TITLE.

AN ACT for the protection of bears; to provide the manner in which said animals may be killed, to fix the seasons in which said animals may be killed; to authorize the hunting of said animals, and to provide for the punishment of violations of this Act.

#### BEARS ARE PROPERTY OF STATE.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all bears found in this State shall be and are hereby declared to be the property of the State.

#### KILLING, ETC., PROHIBITED.

Sec. 2. Be it further enacted, etc., That no person within the State of Louisiana shall kill, catch, have in possession, or attempt to kill, catch or hold in possession, living or dead, any bear, or purchase or offer for sale any bear, after same has been killed or caught, except as otherwise permitted.

#### PROHIBITION OF TRAPPING.

Sec. 3. Be it further enacted, etc., That it shall be unlawful for any person to trap, or attempt to trap a bear at any time.

#### CLOSED SEASON.

Sec. 4. Be it further enacted, etc., That it shall be unlawful to catch or kill any bear between the first day of February and the first day of November of any year. This act does not prevent the owner from catching or killing bears on his own premises at any time while actually injuring property.

#### PROTECTION OF BEARS ON GAME AND FISH PRESERVES.

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any person to kill, pursue, take, snare, have in possession or injure by any means, upon land or water of any game or fish preserve in any parish of the State, whether enclosed or unenclosed, that may be designated and set apart by the Board of Commissioners for the Protection of Birds, Game and Fish as game and fish propagating and breeding grounds, any bear, except under regulations of the Board of Commissioners for the protection of Birds, Game and Fish, the killing or having in possession of each such animal shall constitute a separate offense.

#### EXPORTATION.

Sec. 6. Be it further enacted, etc., That it shall be unlawful for any person, firm, corporation, or common carriers, its officers, agents or ser-

vants to ship, carry, take or transport beyond the confines of the State, any bear at any time; except under written permission of the Board of Commissioners for the Protection of Birds, Game and Fish.

**LICENSE AN ABSOLUTE REQUIREMENT.**

Sec. 7. Be it further enacted, etc., That it shall be unlawful for any resident to hunt bears within the State on other than lands which he owns, leases or rents, unless he is the owner of the hunting license provided by law, and shall exhibit same on demand of any warden or officer.

Sec. 8. Be it further enacted, etc., That it shall be unlawful for any non-resident or unnaturalized foreign-born resident, to hunt bears within the State unless he has in his possession the hunting license provided by law for such persons, and shall exhibit same on demand of any warden, or officer.

All non-residents coming into the State to hunt bears shall report in writing upon arrival at their destination to the Parish Game Warden.

**PENALTIES.**

Sec. 9. Be it further enacted, etc., That any person, firm or corporation or common carrier, their agents and officers violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, pay the costs of the prosecution, and be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00), or be imprisoned in the parish jail for not less than one (1) day, nor more than sixty (60) days, or both fine and imprisonment at the discretion of the court, for each offense, in addition thereto the holder of a hunting license found guilty of violating any of the provisions of this Act before a competent court shall forfeit said license and all further hunting privileges during the current season.

**FINES GO TO SCHOOL FUNDS.**

Sec. 10. Be it further enacted, etc., that all fines collected under the provisions of this Act shall be paid to the Treasurer of the School Funds for the use of the public schools of the parish in which the violations occurred; the sheriff to receive ten per cent for the collection of said fines turned over to the Treasurer.

**REPEALING CLAUSE.**

Sec. 11. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act are hereby repealed and superseded.

**PERMITTING THE BREEDING OF WILD BIRD AND ANIMAL LIFE IN CAPTIVITY.**

Act 219 of 1916, p. 469.

**TITLE.**

AN ACT to regulate the breeding of elk, deer, fur-bearing animals, wild game birds and wild waterfowl in private preserves; to levy a license on all persons engaged in the business; to provide the manner in which such license may be revoked; to provide the manner in which said wild animals or wild game birds or wild waterfowl may be killed; to fix the method by which said wild animals and wild birds or their fur and feathers raised on game farms may be possessed, bought, sold, tagged and transported; to provide for periodical reports from such game breeders; to provide for penalties for trespass on said preserves or game farms; to provide for the taking of species of wild animals and wild bird life for stocking purposes; to provide penalties for violations of this Act; and to repeal all laws or parts of laws in conflict therewith.

**BREEDER'S LICENSE NECESSARY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That any person or persons desiring to engage in the business of raising and selling domesticated American elk, native or imported deer, fur-bearing animals, domesticated native or imported pheasants, quail, or other domesticated wild game birds, or domesticated wild waterfowl, including mallard or other species of imported or native ducks and geese, or any of them, or their fur and feathers, in a wholly enclosed preserve, or entire island, of which he is the owner or lessee, may make application to the Conservation Commission of Louisiana for a license to do so. The Commission, when it shall appear that such application is made in good faith shall, upon a payment of a fee of five dollars (\$5.00), issue to such applicant a breeder's license permitting such applicant to breed and raise domesticated elk, native or imported deer, fur-bearing animals, native or imported pheasants, quail, or other wild game birds or wild waterfowl, on such preserve or entire island, and to sell the same alive, or their fur or feathers, and for stocking and breeding purposes and to kill and transport the same and sell the carcasses thereof for food as hereinafter provided. Such license shall expire on the last day of December in every year at midnight.

**MAY BE KILLED AND SOLD.**

Sec. 2. Be it further enacted, etc., That any person to whom such a license shall have been issued may kill such elk, deer, fur-bearing animals, pheasants, quail, ducks, and other wild game birds or wild waterfowl in the manner and at the time set forth, as follows: such domesticated elk, deer, fur-bearing animals, pheasants, quail, ducks, geese or other domesticated wild game birds or wild waterfowl may be killed and sold at any time but domesticated pheasants, quail, ducks, geese or other species of wild game birds or wild waterfowl killed by shooting shall not be bought, sold or trafficked in under the provisions of this Act. Any licensed person may possess or sell such domesticated elk, deer, fur-bearing animals, pheasants, ducks, geese, or other wild game birds or wild waterfowl for food as hereinafter set forth.

**MUST BE TAGGED.**

Sec. 3. Be it further enacted, etc., That no domesticated elk, deer, fur-bearing animals, pheasants, quail, ducks, geese or other wild game bird or other wild waterfowl killed as aforesaid and intended for sale, shall be shipped, transported, sold or offered for sale, unless each quarter and each loin of each carcass of such elk, or deer; each pelt of such fur-bearing animal; and each domesticated pheasant, quail, duck, goose, or other domesticated wild game bird or domesticated wild waterfowl, or each consignment of feathers shall have been tagged with an indestructible tag or seal which shall be furnished by the Commission at cost. The quarters and loins of the carcass of such domesticated elk, or deer; the pelt of such domesticated fur-bearing animals, and the carcasses of such domesticated pheasants, quail, ducks, geese, or other domesticated wild game bird or domesticated wild waterfowl, when tagged as aforesaid, may be possessed, sold or offered for sale at any time. The sale of a quarter, loin, or any larger portion of such domesticated elk or deer, or the carcass of such domesticated pheasant, quail, duck, goose or other domesticated wild game bird or domesticated wild waterfowl which shall not at the time have affixed thereto the tag or seal aforesaid is hereby prohibited and such sale shall constitute a violation of this Act, provided, however, that the keeper of a hotel, a restaurant, a boarding house, or a retail dealer in meat or a club may sell portions of a quarter or loin of any such domesticated wild elk or deer, or of the carcass of any such domesticated pheasant, quail, ducks, geese, or other domesticated wild game bird or domesticated wild waterfowl, so tagged or sealed as aforesaid, to a patron or a customer for actual consumption, and no license shall be required by such person or club.

**DUTY OF CARRIERS IN TRANSPORTING.**

Sec. 4. Be it further enacted, etc., That any common carrier may receive and transport carcasses, pelts, feathers, or parts thereof of such domesticated elk, deer, pheasants, ducks, geese, or other domesticated wild game birds or domesticated wild waterfowl as aforesaid, but to every package containing such carcasses, pelts, feathers, or parts thereof, shall be affixed a tag or label, upon which shall be plainly printed or written the name of the person to whom such game breeder's license was issued, as well as the license number thereof, by whom such domesticated wild animal or bird are to be transported; the number of carcasses, or portions thereof, contained therein, and that the domesticated wild animals or birds were killed and tagged in accordance with the provisions of this Act.

**SALE REGULATIONS.**

Sec. 5. Be it further enacted, etc., That no person shall sell or offer for sale any venison or birds killed and tagged as aforesaid without first obtaining a license to do so from the Conservation Commission upon such terms and conditions as the Commission may prescribe, and any such license may be revoked at the pleasure of the Commission. The said tags or seals shall remain affixed as aforesaid until the quarters or loins of such domesticated elk or deer, or the carcasses of such pheasants, quail, ducks, geese, or other domesticated wild game birds or domesticated wild waterfowl have been wholly consumed, and the sale of any part or portion of such animals or birds, which shall not at the time have affixed thereto the tag or seal aforesaid is hereby prohibited and such sale shall constitute a violation of this Act, provided, however, that the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat may sell portions of a quarter or a loin of such deer or elk, or of the carcasses of such birds so tagged or sealed as aforesaid, to a patron or customer for actual consumption and no license shall be required of such person or club.

**SEMI-ANNUAL REPORTS MUST BE MADE.**

Sec. 6. Be it further enacted, etc., That on or before the fifteenth day of April of each year every person to whom such a license shall have been issued as aforesaid, shall make a report to the Commission covering the period from the first day of October to the thirty-first day of March preceding, which said report shall state the total number of domesticated elk or deer, fur-bearing animals, pheasants, quail, ducks, geese, or other domesticated wild game birds or domesticated wild waterfowl killed, sold or transported, or the parts thereof, under the provisions of this Act. A second report shall be made on or before the fifteenth day of October of each year covering the period from April first to September thirty. Such reports shall set forth the name of the person to whom such domesticated wild animals and birds, or their pelts or feathers were sold, or transported; and such reports shall be verified by the affidavit to the person to whom such license was issued, or if the license was issued to a corporation, then by an officer thereof.

**FENCES FOR ELK AND DEER, ETC.**

Sec. 7. Be it further enacted, etc., That a preserve used for the breeding of elk or deer, pursuant to this Act, shall be surrounded by a fence of wire, or other material of pattern to be approved by the Commission, of a height of not less than seven feet.

**PROPERTY RIGHTS TO WILD LIFE IN PRESERVE, ETC.**

Sec. 8. Be it further enacted, etc., That any person who under the authority of this Act shall have in his lawful possession any such domesticated wild animals or birds, or the pelts or feathers thereof, shall be deemed to have property right therein and be the owner thereof; and any person who shall enter the enclosure where such wild animals or birds are confined, or who shall catch, take or molest such domesticated wild animals or birds when in such an enclosure, shall be subject to the same

liabilities, penalties and punishment as though such wild animals and birds were ordinary domestic animals and birds subject to the property rights of this State.

**SECURING BREEDING STOCK.**

Sec. 9. Be it further enacted, etc., That the Conservation Commission may issue a permit to a duly licensed game breeder or wild life propagator to take such wild animals or birds as may be needed for use as breeding stock but not to be killed, providing such licensed game breeder applying for such permit shall make his application in writing stating where such wild animals or birds are to be taken, at what time and in what number. Any person who may have been authorized by the Commission to take such wild animals or birds for breeding purposes who may kill, or allow to be killed, such wild animals or birds for sale as food or for their pelts or feathers, shall be guilty of a violation of this Act.

**VIOLATION REVOKE LICENSE.**

Sec. 10. Be it further enacted, etc., That if any person to whom such breeder's license shall have been issued shall be convicted of a violation of any provision of this Act, the Commission may revoke the license of such person, and thereafter no similar license shall be issued to such person.

**PENALTIES.**

Sec. 11. Be it further enacted, etc., That any person violating any provisions of this Act, where a punishment has not otherwise been provided, shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be liable to a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), or be subject to imprisonment for not less than thirty days, or be liable to both fine and imprisonment in the discretion of the court.

**REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws in conflict herewith, be and the same are hereby repealed.

**TITLE TO ALL WILD QUADRUPEDS, ETC., IS IN STATE.**

**Act 88 of 1918, p. 131.**

**TITLE.**

AN ACT to conserve the natural resources of the State of Louisiana, particularly the wild quadrupeds; to vest in the State the title to all wild quadrupeds including mammals, amphibians, and reptiles, and to provide in what manner such wild quadrupeds may be subject to private ownership; to regulate the time when, the manner in which, and the number of various species that may be taken, and when they may not be taken; to provide how such species reduced to private ownership may be shipped and transported; to designate which species or parts thereof may be sold; to prohibit the liberation in the State of species of wild quadrupeds without the consent of the Department of Conservation; to regulate the taking, having in possession, sale, and transportation of alligators and other reptiles; to provide for the confiscation of quadrupeds illegally taken; and to provide penalties therefore, and to repeal all laws in conflict therewith.

**WILD QUADRUPEDS DECLARED PROPERTY OF STATE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana that all wild quadrupeds both resident and migratory found in the State shall be, and hereby are, declared to be the property of the State. A wild quadruped shall be taken to include any four-footed animal, reptile, or amphibian except turtle, in its wild state and shall embrace all four-

footed animals, and amphibians, including game animals, fur-bearing animals, alligators, and rodents.

**WHAT CONSIDERED GAME ANIMALS.**

Sec. 2. Be it further enacted, etc., That all deer, wapiti, or elk, hares, including swamp "rabbits" and cottontails, bear, raccoon, opossums, armadillo, squirrels, and chipmunks shall be considered game animals and shall not be taken by other than the lawful holder of a State hunting license; That all mink, otter, muskrat, raccoons, skunks, opossums, civet cats, wolves, foxes, wild cats, cougars (panthers), shall be considered fur-bearing animals when trapped for their pelts, and shall not be taken by other than the lawful holder of a state trapping license and under the law providing for the taking of fur-bearing animals; That all wolves, foxes, wildcats, (Bobcats or catamounts) cougars (panthers or lions) shall be considered predatory animals and may be taken or killed at any time.

**KILLING, ETC., NOT PERMITTED—EXCEPTION.**

Sec. 3. Be it further enacted, etc., That no person shall kill, catch, have in possession, or attempt to kill, catch, have in possession, living or dead, any deer or part of deer after same has been killed or caught, except as provided in Section 4 of Act 204 of 1912.

That it shall be unlawful for any person to hunt or kill wild deer between the hours of sunset and sunrise, or kill deer when in water, or when driven to the high land by overflow or high water, or when driven to the highland by overflow or high water at any time.

That it shall be unlawful for any person to hunt, or kill wild deer with any gun, or other firearm with any devise for deadening the sound of the explosion attached or fitted thereto, which device is commonly called a silencer.

That it shall be unlawful for any person to snare, trap or capture, transport within or without the State, any wild deer, unless done by order of the Department of Conservation for purposes of restocking, breeding and propagation, or for scientific or educational purposes.

**HUNTING LICENSE.**

Sec. 4. Be it further enacted, etc., That all hares, swamp and cottontail rabbits, doing damage to cultivated crops may be killed at any time, but may not be hunted for sport except by the lawful holder of a state hunting license and only during the open season for the same, which shall be fixed by the Commissioner of Conservation, having due regard for the propagating periods; and the conditions of the several individual parishes. All hares and rabbits may be bought and sold at any time.

**CLOSED SEASON.**

Sec. 5. Be it further enacted, etc., That it shall be unlawful for any person to kill any species of squirrels or chipmunks between the 15th day of February and the 14th day of September inclusive. The lawful holder of a State hunting license may kill 15 squirrels, in any one day of the open season and they may be bought and sold during the open season.

**SELLING PELTS, ETC.**

Sec. 6. Be it further enacted, etc., That it shall be unlawful to pursue, hunt, trap, kill, take, wound or destroy any beaver; to buy, sell, offer for sale any pelt or skin of any beaver now in the State in the wild state, or to transport the same from any point within the state to a point without the State. Any person, firm, corporation, or common carrier violating any of the provisions of this section shall be liable to the penalties provided for in this Act.

**DEPARTMENT MAY MAKE RULES.**

Sec. 7. Be it further enacted, etc., That the Department of Conservation may adopt needful rules and regulations for the protection and propa-

gation of alligators; fix the season during which alligators may be hunted and killed; fix the size of such alligators that may be killed, and fix the size of the skins and hides of such alligators that may be sold, held for sale, or offered for sale, shipped, or transported, said measurement being from the tip of the tail to the tip of the under jaw; that such alligators of lawful size killed for their hides or skins may be taken only by the lawful holder of a State trapping license. But nothing in said rules and regulations shall prohibit or prevent the killing of alligators found damaging levees or canals.

**KILLING, ETC., BEAR, CLOSED SEASON.**

Sec. 8. Be it further enacted, etc., That no person within the State of Louisiana shall kill, catch, or hold in possession or attempt to kill, catch, or hold in possession, living or dead, any bear, or purchase or offer for sale any bear, after same has been killed or caught, except as otherwise permitted; that it shall be unlawful for any person to trap, or attempt to trap a bear at any time; that it shall be unlawful to catch or kill any bear between the 15th day of February and the first day of November of any year; but shall not prevent any owner from catching or killing bears on his own premises at any time while actually injuring property; that it shall be unlawful for any person, firm, corporation, or common carriers, its officers, agents, or servants, to ship, carry, take, or transport beyond the confines of the State any bear at any time; except under written permission of the Department of Conservation and all non-residents coming into the State to hunt bears shall report in writing on or before arrival at their destination to the Department of Conservation.

**LIBERATING WILD ANIMALS.**

Sec. 9. Be it further enacted, etc., That no wild quadrupeds of any species without the State shall be liberated within the State, except on written consent of the Department of Conservation, and no wild animal taken within the State shall be exported without the State except as herein provided, and animals so liberated may be confiscated or killed by the Department of Conservation through its officers, inspectors, or agents.

**VIOLATIONS—CONFISCATION.**

Sec. 10. Be it further enacted, etc., That the taking, killing, trapping, sale, possession, or offering for sale of each quadruped, hide, skin, pelt, or part thereof contrary to the provisions of this Act shall constitute a separate offense. Any quadruped or the pelts or parts thereof taken, held in possession, sold, or offered for sale contrary to the provisions of this Act shall be confiscated by the Department of Conservation through any of its officers or agents.

**PENALTIES.**

Sec. 11. Be it further enacted, etc., That any person violating any of the provisions of this Act where a punishment has not been otherwise provided, shall be guilty of a misdemeanor and upon conviction thereof by any court of competent jurisdiction shall be liable to a fine of not less than twenty-five dollars (\$25.00), nor for more than one hundred dollars (\$100.00), or be subjected to imprisonment for not less than thirty (30) days, or be liable to both fine and imprisonment in the discretion of the court.

**REPEALING CLAUSE.**

Sec. 12. Be it further enacted, etc., That all laws or parts of laws in conflict herewith, especially Acts 37 of 1908, 142 of 1910, and 268 of 1910, be and the same are hereby repealed.

## CREATION AND ADMINISTRATION OF STATE GAME AND FISH PRESERVES.

Act 172 of 1912, p. 312.

### TITLE.

AN ACT to set apart certain State lands for game and fish preserves; to provide for the control of same, for the protection of the game and fish thereon, and to provide for punishment of violations of this Act.

### BOUNDARIES OF PRESERVES.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all the land known as Queen Bess Island, located in Barataria Bay, Township 21 South, Range 25 East, comprising about 50 acres, is hereby designated and set apart as a State Game and Fish Preserve and placed under the control of the Board of Commissioners for the Protection of Birds, Game and Fish, or their successors.

### AUTHORITY OVER LANDS.

Sec. 2. Be it further enacted, etc., That the Board of Commissioners for the Protection of Birds, Game and Fish shall have absolute and full authority to use such lands for the purpose of conserving and increasing the supply of food animals and fish living thereon.

### FISHING, ETC., RULES FOR.

Sec. 3. Be it further enacted, etc., That it shall be unlawful to hunt or fish on said preserves except under such rules and regulations as may be made by the Board of Commissioners for the Protection of Birds, Game and Fish.

### OFFENSES.

Sec. 4. Be it further enacted, etc., That it shall be unlawful for any person to kill, snare, or pursue with intent to kill or take by any means, or to have in possession, any wild animal, bird or fish upon the State Game Preserves designated herein. The killing or pursuing with intent to kill, snare or take, or the having in possession of any wild animal, bird, or fish on said preserves shall constitute a separate offense.

This section shall not prohibit the Board of Commissioners for the Protection of Birds, Game and Fish from killing or having killed any noxious animals on these lands, or from having caught or snared any wild animals or birds for the purpose of propagating, restocking or scientific investigation.

### PENALTIES.

Sec. 5. Be it further enacted, etc., That any person, firm, corporation, or common carrier, their agents and officers violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, pay the costs of the prosecution, and be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) or be imprisoned in the parish jail for not less than thirty (30) days, nor more than six (6) month, or both fine and imprisonment at the discretion of the Court, for each offense.

### DISPOSITION OF FINES.

Sec. 6. Be it further enacted, etc., That all fines collected under the provisions of this Act, shall be paid to the Treasurer of the School Funds for the use of the public schools of the parish in which the violation occurred, the sheriff to receive ten per cent for the collection of said fines turned over to the treasurer.

### REPEALING CLAUSE.

Sec. 7. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act are hereby repealed and superseded.

**PROTECTION OF GAME ON SCHOOL LANDS.****Act 44 of 1914, p. 108.****TITLE.**

AN ACT to make it unlawful for any person to kill, snare, or pursue with intent to kill, or to take by any means, or to have in possession, any wild animal or bird upon any school land or lands or school section or sections, located within the boundaries of any game, fish or bird preserve, propagating ground or nesting place, whether public or private, established or designated, or which may be hereafter established or designated as such, by the Conservation Commission, by and with the consent of the Parish Board of School Directors or immediately contiguous or adjoining any such game, fish or bird preserve, propagating ground or resting place; to provide for the punishment for the violation of any of the provisions of this Act and to repeal all laws or parts of laws contrary to or inconsistent with the provisions of this law.

**KILL, SNARE, ETC., ON SCHOOL LANDS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever any school land or lands, or school section or sections, are located within the boundaries of any game, fish or bird preserve or propagating ground or nesting place, whether public or private, established or designated, or which may be hereafter established or designated as such by the Conservation Commission, by and with the consent of the Parish Board of School Directors, or under its authority, or whenever any school land or lands, or school section or sections are immediately contiguous or adjoining any such game, fish or bird preserve or propagating ground or nesting place, it shall be unlawful for any person to kill, snare or pursue with intent to take or kill by any means, or to have in possession any wild animal or bird from or upon such school land or lands, or school section or sections.

The killing or pursuing with intent to kill, snare or take, or the having in possession of each wild animal or bird on any such school land or lands, or school section or sections, shall constitute a separate offense.

This section shall not prohibit the Conservation Commission from killing or having killed, any wolves, wildcats or other obnoxious animals on any such school land or lands, or school section or sections, or from having caught or ensnared any wild animal or birds on such school land or lands, or school section or sections, for the purpose of propagation, restocking, educational purposes or scientific investigation.

**PENALTIES.**

Sec. 2. Be it further enacted, etc., That a person who violates any provision of this Act shall be guilty of a misdemeanor, and shall be subject to a fine of not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00), with costs of suit, for each offense or trespass, to be imposed by any court of competent jurisdiction.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws or parts of laws inconsistent with or contrary to this Act, be and the same are hereby repealed.

[R. S., Secs. 2474, 2475, 2476.] "Neat Cattle and Hogs" were repealed by Act 80, 1918. The sections are not repealed by numbers, Act 80, 1918, repeals Act 236, 1855, on which these sections are based.

## NEGOTIABLE RECEIPTS AND BILLS OF LADING.\*

**[Receipts Not to Issue Without Actual Deposit of Goods.]**

**[R. S., Sec. 2477.]** No cotton press owner or lessee, wharfinger, or other person shall issue any receipt or other voucher for any goods, wares, merchandise, grain, flour, or other produce or commodity to any person or persons purporting to be the holder, owner or owners thereof, unless such goods, wares, merchandise, grain or other produce or commodity shall have been actually received into store or upon the premises of such cotton press, wharfinger or other person, and shall be in the store or on the premises aforesaid, or under his control at the time of issuing such receipt.

**[Same Subject—Receipts as Collateral Security.]**

**[R. S., Sec. 2478.]** No cotton press owner or lessee, wharfinger or other person shall issue any receipt or other voucher upon any goods, wares, merchandise, grain, flour or other produce or commodity to any person or persons for money loaned or other indebtedness, unless such goods, wares, merchandise, grain, flour or other produce or commodity shall be at the time of issuing such receipt in the custody of such cotton press owner or lessee, wharfinger or other person, and shall be in store, or upon the premises and under his control, at the time of issuing such receipt or other voucher as aforesaid.

**[Duplicate Receipt Shall Not Issue While Original Outstanding.]**

**[R. S., Sec. 2479.]** No cotton press owner or lessee, wharfinger, or other person shall issue any second or duplicate receipt for any goods, wares, merchandise, grain, flour or other produce or commodity, while any former receipt for any such goods, wares, merchandise, grain, flour, or other produce or commodity as aforesaid, or any part thereof, shall be outstanding and uncancelled without writing across the face of the same, "Duplicate."

**[No Delivery Without Written Release.]**

**[R. S., Sec. 2480.]** No cotton press, wharfinger or other person shall sell or incumber, ship, transfer or in any manner remove or permit to be shipped, transferred or removed beyond his control any goods, wares, merchandise, grain, flour, or other

\*Note. This title is retained, because the official numbering of the Sections of the Revised Statutes compels it. Other acts on the same subject are printed under titles, "Bills and Notes," "Public Warehouses," under the last title is printed Act 72, 1876, "Pledge of Receipts as Collateral Security." Act 156, 1888, "Public Warehouses." Act 221, 1908, "Warehouse Receipts Act."

produce or commodity, for which a receipt shall have been given by him as aforesaid, whether received for storing, shipping, grinding manufacturing or other purpose, without the written assent of the person or persons holding such receipt.

**[Bill of Lading Not to Issue Without Actual Receipt of Goods.]**

[R. S., Sec. 2481.] No master, owner or agent of any boat or vessel of any description, forwarder, or officer or agent of any railroad, transfer or transportation company, or other person shall sign or give any bill of lading, receipt or other voucher or document for any merchandise or property by which it shall appear that such merchandise or property has been shipped on board of any boat, vessel, railroad car or other vehicle, unless the same shall have been actually shipped and put on board, and shall be at the time actually on board, or delivered to such boat, vessel, car, or other vehicle, to be carried or conveyed as expressed in said bill of lading, receipt or other voucher or document.

**[Holder of Receipt Deemed Owner of Goods.]**

[R. S., Sec. 2482.] Cotton press receipts given for any goods, wares, merchandise, grain, flour or other produce or commodity stored or deposited with any cotton press, wharfinger or other person, or any bill of lading given by any forwarder, boat, vessel, railroad, transportation or transfer company may be transferred by indorsement therein, and any person to whom the same may be transferred shall be deemed and taken to be the owner of the goods, wares, merchandise, grain, flour or other produce or commodity therein specified, so far as to give validity to any pledge, lien or transfer made or created by such person or persons, but no property shall be delivered except on surrender and cancellation of said original receipt or bill of lading of the indorsement of such delivery thereon; in case of partial delivery all cotton press receipts or bills of lading, however, which shall have the words "not negotiable" plainly written or stamped on the face thereof, shall be exempt from the provisions of this section.

**[Penalties for Violation.]**

[R. S., Sec. 2483.] Any cotton press, wharfinger, forwarder or other person who shall violate any of the provisions of this act shall be deemed guilty of a criminal offense, and upon indictment and conviction, shall be fined in any sum not exceeding five thousand dollars, or imprisoned in the penitentiary of this State not exceeding five years, or both. And all and every person or persons aggrieved by the violation of any of the provisions of this act may have and maintain an action at law against the person or persons, corporation or corporations, violating any of the provisions of this act to recover all damages, immediate or consequential, which he or they may have sustained by reason of any such violation as aforesaid, before any court of

competent jurisdiction, whether such person or persons shall have been convicted of fraud as aforesaid under this act or not.

**[Statutes Made Applicable to Bills of Lading.]**

[R. S., Sec. 2484.] All the provisions of this act shall apply and be applicable to bills of lading and to all persons or corporations, their agents or servants that shall or may issue bills of lading of any kind or description the same as if the words "forwarded and bills of lading" were mentioned in every section of this act.

**[Receipts, Etc., Made Negotiable by Indorsement.]**

[R. S., Sec. 2485.] All receipts, bills of lading, vouchers or other documents issued by any cotton press, wharfinger, forwarder or other person, boat, vessel, railroad, transportation or transfer company, as by this act provided, shall be negotiable by indorsement in blank or by special indorsement, in the same manner and to the same extent as bills of exchange and promissory notes now are.

Note. Only genuine Bills of Lading are negotiable. Bills issued for merchandise not actually laden are not genuine, and so not negotiable and not binding on the carrier, even in the hands of a third innocent holder for value. *Henderson vs. L. & N. Railway Co.*, 116 L. 1047, citing *Hunt & Macauley vs. Railway Co.*, 29 A. 444.

Bills of Lading are negotiable in the same manner and to the same extent as Bills and Notes. *Hardie & Co. vs. S. & P. Railway Co.*, 118 L. 258.

A Bill of Lading is a negotiable instrument and as such may be transferred for an antecedent or pre-existing debt, or for any consideration sufficient to support a simple contract. It may be pledged by endorsement and delivery to secure any lawful obligation. *Scheuerman vs. Monarch Fruit Co.*, 123 L. 55. (This is the latest case in our jurisprudence on the subject, and the earlier cases are considered in the cases here given in the notes. It should be noted that in *Henderson vs. L. & N. Ry. Co.*, 116 L. 1047, the full negotiability is restricted to "genuine" Bills of Lading, i. e.—in that case—Bills of Lading for goods actually delivered to the carrier. In *Shaw vs. Railway Co.*, 101 U. S. 557, the court refused to give Bills of Lading the full negotiability of bills and notes, etc. As this last case is mentioned in the Hardie case, which is followed by the Scheuerman case in the 123 L. 55, the Henderson case would appear to be overruled, all these cases were however, decided before the enactment of Act 94, 1912—The Uniform Bill of Lading Act, printed at p. 1447.

**[Evasions Not Permitted.]**

[R. S., Sec. 2486.] No printed or written conditions or clauses inserted in or attached to any cotton press receipt on or bill of lading, which in any way limits the liability imposed by this act shall have any effect or force whatsoever.

**[Removal of Property by Legal Process.]**

[R. S., Sec. 2487.] So much of the preceding sections of this act as forbids the delivery of property except on surrender and cancellation of the original receipt or bill of lading or the indorsement of such delivery thereon in case of partial delivery, shall not apply to property, replevied or removed by operation of law.

[R. S., Sec. 2488.] Penalty for fraudulently disposing by pledge or otherwise of Receipts. R. S., Sec. 824, title "Criminal Law."

[R. S., Sec. 2489.] Purchasing Goods, etc., with intent to defraud or canceling them, etc., declared a felony. R. S., Sec. 825, title "Criminal Law."

[R. S., Sec. 2490.] How pledge shall be made, etc. This section was originally Sec. 2, Art. 287, 1855, p. 348. The same act was verbatim again enacted by Act 138, 1866, p. 266, and section of both acts became R. S., Sec. 2490, and the whole act was embodied in R. C. C., Art. 3158, which was amended by Act 157, 1890, p. 239.

## UNIFORM BILLS OF LADING ACT.

Act 94 of 1912, p. 101.

### TITLE.

AN ACT to make uniform the Law of Bills of Lading.

Be it enacted by the General Assembly of the State of Louisiana; That the Law of Bills of Lading in this State shall hereafter be as follows; to-wit:

### PART 1.

#### The Issue of Bills of Lading.

#### BILLS GOVERNED BY THIS ACT.

Section 1. Bills of Lading issued by any common carrier shall be governed by this Act.

#### FORM OF BILLS; ESSENTIAL TERMS.

Sec. 2. Every bill must embody within its written or printed terms:

- (a) The date of its issue.
- (b) The name of the person from whom the goods have been received.
- (c) The place where the goods have been received,
- (d) The place to which the goods are to be transported,
- (e) A statement whether the goods received will be delivered to a specified person, or to the order of a specified person,
- (f) A description of the goods or of the packages containing them which may, however, be in such general terms as are referred to in Section 23, and
- (g) The signature of the carrier.

A negotiable bill shall have the words "order of" printed thereon immediately before the name of the person whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from a negotiable bill of any of the provisions required in this section.

#### FORM OF BILLS—WHAT TERMS MAY BE INSERTED.

Sec. 3. A carrier may insert in a bill, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

- (a) Be contrary to law or public policy, or
- (b) In any wise impair his obligation to exercise at least that degree of care in the transportation and safe-keeping of the goods entrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

**DEFINITIONS OF NON-NEGOTIABLE OR STRAIGHT BILL.**

Sec. 4. A bill in which it is stated that the goods are consigned or destined to a specified person, is a non-negotiable or straight bill.

**DEFINITION OF NEGOTIABLE OR ORDER BILL.**

Sec. 5. A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill, is a negotiable or order bill.

Any provision in such a bill that is non-negotiable shall not affect its negotiability within the meaning of this Act.

**NEGOTIABLE BILLS MUST NOT BE ISSUED IN SETS.**

Sec. 6. Negotiable bills issued in this State for the transportation of goods to any place in the United States on the continent of North America, except Alaska, shall not be issued in parts or sets.

If so issued the carrier issuing them shall be liable for failure to deliver the goods described therein to any one who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts.

**DUPLICATE NEGOTIABLE BILLS MUST BE SO MARKED.**

Sec. 7. When more than one negotiable bill is issued in this State for the same goods to be transported to any place in the United States on the continent of North America, except Alaska, the word "duplicate" or some other word or words indicating that the document is not an original bill shall be placed plainly upon the face of every such bill, except the one first issued. A carrier shall be liable for the damage caused by his failure so to do any one who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill.

**NON-NEGOTIABLE BILLS SHALL BE SO MARKED.**

Sec. 8. A non-negotiable bill shall have placed plainly upon its face by the carrier issuing it "non-negotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgments of an informal character.

**INSERTION OF NAME OF PERSON TO BE NOTIFIED.**

Sec. 9. The insertion in a negotiable bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill, or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

**ACCEPTANCE OF BILL INDICATES ASSENT TO ITS TERMS.**

Sec. 10. Except as otherwise provided in this Act, where a consignor receives a bill and makes no objections to its terms or conditions at the time he receives it, neither the consignor nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provision of the bill, shall be allowed to deny that he is bound by such terms and conditions, as far as they are not contrary to law or public policy.

**PART 2.****Obligations and rights of carriers upon their Bills of Lading.****OBLIGATION OF CARRIER TO DELIVER.**

Sec. 11. A carrier in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or if the bill is negotiable, by the holder thereof, if such demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods

(b) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is negotiable, and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

#### **JUSTIFICATION OF CARRIER IN DELIVERY.**

**Sec. 12.** A carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a non-negotiable bill for the goods, or

(c) A person in possession of a negotiable bill for the goods by the terms of which the goods are deliverable to his order, or which has been indorsed to him or in blank by the consignees or by the mediate or immediate indorsee of the consignee.

#### **CARRIER'S LIABILITY FOR MIS-DELIVERY.**

**Sec. 13.** Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods. A request or information to be effective within the meaning of this section must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

#### **NEGOTIABLE BILLS MUST BE CANCELLED WHEN GOODS DELIVERED**

**Sec. 14.** Except as provided in Section 27, and except when compelled by legal process, if a carrier delivers goods for which a negotiable bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to any one who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier, and notwithstanding delivery was made to the person entitled thereto.

#### **NEGOTIABLE BILLS MUST BE CANCELLED OR MARKED WHEN PARTS OF GOODS DELIVERED.**

**Sec. 15.** Except as provided in Section 27, and except when compelled by legal process, if a carrier delivers part of the goods for which a negotiable bill has been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered, with a description, which may be in general terms, either of the goods or the packages that has been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill, to any one who for value and in good faith purchases it, whether such person acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

**ALTERED BILLS.**

Sec. 16. Any alteration, addition or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

**LOST OR DESTROYED BILLS.**

Sec. 17. Where a negotiable bill had been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the carrier or any person injured by such delivery from any liability or loss, incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the carrier from liability to a person to whom the negotiable bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

**EFFECT OF DUPLICATE BILL.**

Sec. 18. A bill upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

**CARRIER CANNOT SET UP TITLE IN HIMSELF.**

Sec. 19. No title to goods or right to their possession, asserted by a carrier for his own benefit, shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

**INTERPLEADER OF ADVERSE CLAIMANTS.**

Sec. 20. If more than one person claims the title or possession of goods, the carrier may require all known claimants to interplead, either as a defence to an action brought against him for non-delivery of the goods, as an original suit, whichever is appropriate.

**CARRIER HAS REASONABLE TIME TO DETERMINE VALIDITY OF CLAIMS.**

Sec. 21. If some one other than the consignee or person in possession of the bill, has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods either to the consignee or person in possession of the bill, or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

**ADVERSE TITLE IS NO DEFENCE, EXCEPT AS ABOVE PROVIDED.**

Sec. 22. Except as provided in the two preceding sections and in Section 12, no right or title of a third person unless enforced by legal process shall be a defence to an action brought by the consignee of a non-negotiable bill or by the holder of a negotiable bill against the carrier for failure to deliver the goods on demand.

**LIABILITY FOR NON-RECEIPT OR MISDESCRIPTION OF GOODS.**

Sec. 23. If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to

- (a) The consignee named in the non-negotiable bill, or
- (b) The holder of a negotiable bill.

Who has given value in good faith relying upon the description therein of the goods, for damages caused by the non-receipt by the carrier or a con-

necting carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may, also by inserting in the bill the words "shipper's load and count" or other words of like purport indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the non-receipt or by the misdescription of the goods described in the bill.

#### **ATTACHMENT OR LEVY UPON GOODS FOR WHICH A NEGOTIABLE BILL HAS BEEN ISSUED.**

Sec. 24. If the goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner and a negotiable bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise, or be levied upon under an execution, unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

#### **CREDITOR'S REMEDIES TO REACH NEGOTIABLE BILLS.**

Sec. 25. A creditor whose debtor is the owner of a negotiable bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill, or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which can not be readily attached or levied upon by ordinary legal process.

#### **NEGOTIABLE BILL MUST STATE CHARGES FOR WHICH LIEN IS CLAIMED.**

Sec. 26. If a negotiable bill is issued the carrier shall have no lien on the goods therein mentioned, except for charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall be, also, a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

#### **EFFECT OF SALE.**

Sec. 27. After the goods have been sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be negotiable.

### **PART 3.**

#### **Negotiation and Transfer of Bills.**

#### **NEGOTIATION OF NEGOTIABLE BILLS BY DELIVERY.**

Sec. 28. A negotiable bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

**NEGOTIATION OF NEGOTIABLE BILLS BY ENDORSEMENT.**

Sec. 29. A negotiable bill may be negotiated by the endorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such endorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

**TRANSFER OF BILLS.**

Sec. 30. A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby.

A non-negotiable bill cannot be negotiated, and the endorsement of such bill gives the transferee no additional right.

**WHO MAY NEGOTIATE A BILL.**

Sec. 31. A negotiable bill may be negotiated by any person in possession of the same, however such possession may have been acquired if, by the terms of the bill, the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

**RIGHT OF PERSON TO WHOM A BILL HAS BEEN NEGOTIATED.**

Sec. 32. A person to whom a negotiable bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value, and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

**RIGHTS OF PERSON TO WHOM A BILL HAS BEEN TRANSFERRED.**

Sec. 33. A person to whom a bill has been transferred but not negotiated acquires thereby as against the transferor, the title of the goods, subject to the terms of any agreement with the transferor. If the bill is non-negotiable, such person also acquires the right to notify the carrier of the transfer to him of such bill, and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification. Prior to the notification of the carrier by the transferor or transferee of a non-negotiable bill, the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time with the exercise of reasonable diligence to communicate with the agent or agents having actual possession or control of the goods.

**TRANSFER OF NEGOTIABLE BILL WITHOUT INDORSEMENT.**

Sec. 34. Where a negotiable bill is transferred for value by delivery, and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the endorsement is actually made. This obligation may be specifically enforced.

**WARRANTIES ON SALE OF BILL.**

Sec. 35. A person who negotiates or transfers for value a bill by endorsement or delivery, including one who assigns for value a claim secured by a bill, unless a contrary intention appears, warrants—

- (a) That the bill is genuine,
- (b) That he has a legal right to transfer it,
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill, and
- (d) That he has a right to transfer the title of the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a bill the goods represented thereby.

In the case of an assignment of a claim secured by a bill, the liability of the consignor shall not exceed the amount of the claim.

**INDORSER NOT A GUARANTOR.**

Sec. 36. The indorsement of a bill shall not make the endorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

**NO WARRANTY IMPLIED FROM ACCEPTING PAYMENT OF A DEBT.**

Sec. 37. A mortgagee or pledgee, or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or to warrant the genuineness of such bill or quantity or quality of the goods.

**WHEN NEGOTIATION NOT IMPAIRED BY FRAUD, ACCIDENT, MISTAKE, DURESS OR CONVERSION.**

Sec. 38. The validity of the negotiation of a bill is not impaired by the fact that such obligation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor, in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress or conversion.

**SUBSEQUENT NEGOTIATION.**

Sec. 39. When a person having sold, mortgaged, or pledged goods which are in a carrier's possession and for which a negotiable bill has been issued, or having sold, mortgaged, or pledged the negotiable bill representing such goods, continues in the possession of the negotiable bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

**FORM OF THE BILL AS INDICATING THE RIGHTS OF BUYER AND SELLER.**

Sec. 40. Where the goods are shipped by the consignor in accordance with a contract or order for their purchase, the form in which the bill is taken by the consignor shall indicate the transfer or the retention of the property or right to the possession of the goods as follows:

- (a) Where by the bill the goods are deliverable to the buyer or to his agent, or to the order of the buyer or of his agent, the consignor thereby transfers the property in the goods to the buyer.
- (b) Where by the bill the goods are deliverable to the seller or to his agent, or to the order of the seller or of his agent, the seller thereby re-

serves the property in the goods. But if, except for the form of the bill, the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

(c) Where by the bill the goods are deliverable to the order of the buyer or of his agent, but possession of the bill is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods, as against the buyer.

(d) Where the seller draws on the buyer for the price and transmits the draft and bill together to the buyer to secure acceptance or payment of the draft, the buyer is bound to return the bill if he does not honor the draft, and if he wrongfully retains the bill he acquires no added right thereby. If, however, the bill provides that the goods are deliverable to the buyer, or to the order of the buyer, or is indorsed in blank or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill or goods from the buyer, shall obtain the title of the goods, although the draft has not been honored, if such purchaser has received delivery of the bill indorsed by the consignee named therein, or the goods, without notice of the facts making the transfer wrongful.

**DEMAND, PRESENTATION OR SIGHT DRAFT MUST BE PAID, BUT DRAFT ON MORE THAN THREE DAYS' TIME MERELY ACCEPTED BEFORE BUYER IS ENTITLED TO THE ACCOMPANYING BILL.**

Sec. 41. Where the seller of the goods draws on the buyer for the price of the goods and transmits the draft and a bill of lading for the goods either directly to the buyer or through a bank or other agency, unless a different intention on the part of the seller appears, the buyer and all other parties interested shall be justified in assuming:

(a) If the draft is by its terms or legal effect payable on demand or presentation or at sight, or not more than three days thereafter (whether such three days be termed days of grace or not), that the seller intended to require payment of the draft before the buyer should be entitled to receive or retain the bill.

(b) If the draft is by its terms payable on time, extending beyond three days after demand, presentation or sight (whether such three days be termed days of grace or not), that the seller intended to require acceptance, but not payment of the draft before the buyer should be entitled to receive or retain the bill.

The provisions of this section are applicable whether by the terms of the bill the goods are consigned to the seller, or to his order, or to the buyer, or to his order, or to a third person, or to his order.

**NEGOTIATION DEFEATS VENDOR'S LIEN.**

Sec. 42. Where a negotiable bill has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right in stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

**WHEN RIGHTS AND REMEDIES UNDER MORTGAGES AND LIENS ARE NOT LIMITED.**

Sec. 43. Except as provided in Section 42, nothing in this Act shall limit the rights and remedies of a mortgagee or lienholder whose mortgage or lien on goods would be valid, apart from this Act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

## PART 4.

## Criminal Offences.

**ISSUE OF BILL FOR GOODS NOT RECEIVED.**

Sec. 44. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill knowing that all or any part of the goods for which such bill is issued have not been received by such carrier, or by, an agent of such carrier or by a connecting carrier, or are not under the carrier's control at the time of issuing such bill, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**ISSUE OF BILL CONTAINING FALSE STATEMENT.**

Sec. 45. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**ISSUE OR DUPLICATE BILLS NOT SO MARKED.**

Sec. 46. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of the provisions of Section 7, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncancelled, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years.

**NEGOTIATION OF BILL FOR MORTGAGED GOODS.**

Sec. 47. Any person who ships goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable bill which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of lien or mortgage shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**NEGOTIATION OF BILL WHEN GOODS ARE NOT IN CARRIER'S POSSESSION.**

Sec. 48. Any person who with intent to deceive negotiates or transfers for value a bill knowing that any or all of the goods which by the terms of such bill appear to have been received for transportation by the carrier which issued the bill, are not in the possession or control of such carrier, or of a connecting carrier, without disclosing this fact, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**INDUCING CARRIER TO ISSUE BILL WHEN GOODS HAVE NOT BEEN RECEIVED.**

Sec. 49. Any person who with intent to defraud secures the issue by a carrier of a bill knowing that at the time of such issue, any or all of the goods described in such bill as received for transportation have not been received by such carrier, or an agent of such carrier, a connecting carrier, or are not under the carrier's control, and by inducing an officer, agent or servant of such carrier falsely to believe that such goods have been received by such carrier, or are under its control, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**ISSUE OF NON-NEGOTIABLE BILL NOT SO MARKED.**

Sec. 50. Any person who with intent to defraud issues or aids in issuing a non-negotiable bill without the words "not negotiable" placed plainly upon

the face thereof, shall be guilty of a crime, and upon conviction shall be punished for each offence by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

#### PART 5.

##### **Interpretation.**

##### **RULES FOR CASES NOT PROVIDED FOR IN THIS ACT.**

Sec. 51. In any case not provided for in this Act, the rules of law and equity including law of merchant, and in particular the rules relating to the law of the principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress, or coercion, accident, mistake, bankruptcy, or other invalidating cause, shall govern.

##### **INTERPRETATION SHALL GIVE EFFECT TO PURPOSE OF UNIFORMITY.**

Sec. 52. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

##### **DEFINITIONS.**

Sec. 53. (1) In this Act, unless the context or subject matter otherwise requires—

“Action” includes counter claim, set-off, and suit in equity.

“Bill” means bill of lading.

“Consignee” means the person named in the bill as the person to whom delivery of the goods is to be made.

“Consignor” means the person named in the bill as the person from whom the goods have been received for shipment.

“Goods” means merchandise or chattels in course of transportation, or which have been or about to be transported.

“Holder” of a bill means a person who has both actual possession of such bill and a right of property therein.

“Order” means an order by indorsement on the bill.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership of two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee and to take as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a bill is taken either in satisfaction thereof or as security therefor.

(2) A thing is done “in good faith.” when the meaning of this Act, when it is in fact done honestly, whether it be done negligently or not.

##### **ACT DOES NOT APPLY TO EXISTING BILLS.**

Sec. 54. The provisions of this Act do not apply to bills made and delivered prior to the taking effect thereof.

##### **INCONSISTENT LEGISLATION REPEALED.**

Sec. 55. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

##### **TIME WHEN THE ACT TAKES EFFECT.**

Sec. 56. This Act shall take effect on the 1st day of October, one thousand nine hundred and twelve (1912).

##### **NAME OF ACT.**

Sec. 57. This Act may be cited as the Uniform Bills of Lading Act.

## NEW ORLEANS.

### BOARD OF COMMISSIONERS FOR PORT OF NEW ORLEANS.

Act 70 of 1896, p. 102.

#### TITLE.

AN ACT to establish a commission for the Port of New Orleans; to define their powers and duties; to provide a revenue therefor; and to repeal conflicting laws.

#### PREAMBLE.

Whereas, the Port of New Orleans has been gradually extended until it has reached beyond the limits and jurisdiction of the city of New Orleans; and

Whereas, the divided authority of three Parishes and the multiplicity of officials with their various fees, and the development of contiguous rival ports will act injuriously and prejudicially to the traffic of the Port; and

Whereas, the tax on shipping exacted for various fees, charges, etc., is of such proportions as to threaten to divert the trade to less expensive ports; and

Whereas, the supervision and control of an intelligent Board of State Commissioners can consolidate the services of Harbor Masters and Wardens, Wharf Superintendents, Warfingers of three Parishes into one set of competent employees at a reduced expense; can operate and improve the wharves and other terminal facilities of the Port and greatly develop and expand its commerce by removing many of the obstacles now placed in the way of its advancement; and

Whereas, due public notice of the intention to apply for the passage of this act has been given as required by Article 48 of the Constitution, Therefore

#### APPOINTMENT OF BOARD OF COMMISSIONERS.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Governor of the State of Louisiana is hereby authorized to appoint a Board of Commissioners to be known as the "Board of Commissioners of the Port of New Orleans," said Board to consist of five members, who shall be citizens of the United States and reside within the Port limits of New Orleans in the Parishes of Orleans, Jefferson or St. Bernard, and at the time of their appointment must be prominently identified with the commerce or business interests of the Port of New Orleans. One of said Commissioners shall be appointed for a term of three years, one for four years, one for five years, one for six years and one for seven years. At the expiration of their term their successors shall be appointed by the Governor for a period of five years each. The Board shall have the power to fill the unexpired term should any vacancy occur through death, resignation or otherwise.

#### BOARD HAS POWER TO REGULATE COMMERCE, ETC. OF PORT.

Sec. 2. (As amended by Act 14 E. S. 1915, p. 34). Be it further enacted, etc., That said board of commissioners shall have the power to regulate the commerce and traffic of the Port and harbor of New Orleans in such manner as may, in their judgment be best for its maintenance and development. They shall have and enjoy all the rights, powers and immunities incident to corporations. They shall be empowered, and it shall be their duty to have charge of and administer the public wharves and landings of the Port of New Orleans; to construct new wharves and other structures when necessary; to erect sheds and other structures on the wharves and landings; to place and keep the wharves and landings, sheds and other structures in good condition; to maintain proper depths of water at all such wharves and landings; to provide mechanical facil-

ties for the use of such wharves, landings, sheds and other structures; to provide light, water, police protection as under existing laws and such other services for such wharves; landings and sheds as they may deem advisable; to finance, erect and operate all basins, locks, canals and warehouse elevators; that they shall be empowered to charge for the use of the wharves, sheds and other structures, for the use of all facilities administered by them, and for any and all services rendered by them, such fees, rates, tariffs or other charges as may be established by the Board of Commissioners of the Port of New Orleans: Provided that the provisions of this Act shall apply only to the publicly owned wharves, docks and sheds as are now owned and operated or which may be purchased, acquired, erected or operated by the Board of Commissioners of the Port of New Orleans, and is not intended to affect any Constitutional or legal rights or the status now existing as to publicly or privately owned wharves or sheds on the river front of the Port of New Orleans.

#### **WHAT ORDINANCES MAY BE ENFORCED.**

Sec. 3. (As amended by Act 14 E. S. 1915, p. 34). Be it further enacted, etc., That the former ordinances of the City of New Orleans applying to wharves and landings and river front of the City of New Orleans shall remain in full force and effect, except as amended by the Board of Commissioners of the Port of New Orleans, and all ordinances passed by said latter Board concerning the territory, jurisdiction and control of the Port of New Orleans, and the proper conduct thereof, shall be enforceable by fine and imprisonment in the same manner as the ordinances of the City of New Orleans now are, that is, by fine not to exceed twenty-five dollars or an imprisonment not to exceed thirty days, the prosecutions to be carried on in the Recorder's Courts of the City of New Orleans, or in the District Courts in Jefferson and St. Bernard Parishes.

#### **ORDINANCES NAMING HARBORMASTERS, ETC., REPEALED.**

Sec. 4. (As amended by Act 36, 1900, p. 44). Be it further enacted, etc., That all laws and ordinances, regarding the appointment and fees governing Harbormasters, Masters and Wardens, Wharfingers, Wharf Superintendents, and any and all laws in conflict with this act are hereby repealed, and the authority and control heretofore vested in them, is hereby vested in the Board of Commissioners for the Port of New Orleans, who shall employ sufficient persons to be known as Deputy Commissioners not exceeding five, who shall, under direction and supervision of the Board, perform the duties now devolving upon the Harbormasters, Master and Wardens, Wharfingers, etc.

All laws within the jurisdiction of this Commission and ordinances of the City of New Orleans imposing penalties for violating the rules and regulations governing the management of the wharves and landings in force and effect July 9th, 1896, shall remain in force and effect, and may be enforced by said Commissioners.

#### **FEES TO BE CHARGED VESSELS.**

Sec. 5. (As amended by Act 36, 1900, p. 44.) Be it further enacted, etc., That said Board of Commissioners are hereby authorized and empowered to charge all vessels a fee not exceeding ten dollars for vessels arriving in ballast, or with green fruit, and a further charge of five dollars for vessels arriving with general cargo. They shall also be empowered to make a charge of one dollar for each copy of certificate issued by said Deputy Commissioner for the inspection of hatches, surveys of cargoes, etc. The Master of each ship, however, being furnished free, one copy of all surveys upon their respective vessels or cargoes. The charges authorized by this section shall be in addition to the charges authorized by other sections of this Act.

#### **APPOINTMENT OF SUPERINTENDENT.**

Sec. 6. (As amended by Act 197, 1918.) Be it further enacted, etc., The said Board of Commissioners shall appoint from among the deputy

commissioners a superintendent. The salary of the superintendent and deputy commissioners shall be fixed by the Board of Commissioners of the Port of New Orleans, provided however that no salary shall be reduced below the amount existing at the time of the approval of this act.

**ANNUAL REPORT.**

Sec. 7. Be it further enacted, etc., That it shall be the duty of said Board of Commissioners to examine and investigate all questions relating to the interest of the Port of New Orleans; to regulate same as far as it is in their power under this act, or as hereafter amended, and to annually make a printed, classified report to the Governor of the State of Louisiana, of all receipts and disbursements; the number of arrivals and departures of vessels and crafts. The exports and imports of merchandise, etc., and on the general management of the business of the Port and the condition of the improvements.

**ELECTION OF PRESIDENT, VICE-PRESIDENT, ETC.**

Sec. 8. (As amended by Act 14 E. S., 1915, p. 34.) Be it further enacted, etc., That said Board of Commissioners shall elect out of their own number, a president, a vice-president and a secretary, whose duties shall be those usual to such officers, and shall meet in regular session twice a month in September, October, November, December, January, February, March and April, and once in regular session in the months of May, June, July and August. They shall also meet in special session as often as the president of the Board shall convene them, or on written request of three members. Three members of the Board shall constitute a quorum for the transaction of business. The Board shall prescribe rules to govern its meetings; shall keep suitable offices convenient to the business center of the City of New Orleans; shall employ all necessary clerical and other employees and when necessary a separate attorney; fix the compensation of all such, and determine within their discretion the beginning and the termination of employment of all who render services to said Board. That on or before January 31st of each year, the Secretary of said Board shall render a full account of the annual receipts and disbursements of said Board to the Governor for the preceding year, and shall furnish copies of said report to the daily newspapers of the City of New Orleans and of Baton Rouge.

**ACQUISITION OF WHARVES, ETC.**

Sec. 9. (As amended by Act 36, 1900, p. 44.) Be it further enacted, etc., That the Board of Commissioners herein created, be and is authorized and empowered to acquire by purchase or by expropriation, the lease of the wharves now held by the Louisiana Construction and Improvement Company, or of any other wharves and landings, and it is made the duty of the Common Council of New Orleans to provide for the payment of the price of such purchase or expropriation, out of the funds under their control, provided, that the price to be paid shall be satisfactory to the said Council. Said Commission shall have the power to expropriate any property, wharves or landings necessary to be expropriated for the benefit of the commerce of the Port and Harbor of New Orleans, in accordance with the expropriation laws of this State.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all laws or parts of laws in conflict with this act be and the same are hereby repealed.

**REPEALING CLAUSE RESERVATION.**

Sec. 11. (As amended by Act 14 E. S., 1915, p. 34.) Be it further enacted, etc., That all laws or parts of laws conflicting with this Act be and the same are hereby repealed, provided nothing in this act shall be construed or affecting or lessening the rights or remedies of the holders of any bonds of the Board of Commissioners of the Port of New Orleans issued under either the constitutional amendment, Act 180 of 1908, or Article 322 of the Constitution of 1913, and provided that this Act does not alter or

affect the law in regard to employees appointed in warehouses on the recommendation of the Board of Examiners of the New Orleans Cotton Exchange as is now or may be hereafter provided for by law.

Note. Act 70 of 1896 is not a local or a special statute, it is general in effect, nor is it obnoxious to Const. Arts. 48 and 56. The Board of Commissioners do not constitute a corporation its members are properly appointed by the Governor, its effects are not limited to the city of New Orleans, the matters involved are not local and municipal. Wharves and landings within the limits of a municipal corporation are not within the powers of the municipal government, unless made so by legislation. Const. Art. 46 applies to roads, etc., but not to wharves and landings. The Board has only powers of administration. The law does not deprive the city of any property. Duffy et al. vs. City et al. 49 A. 114. The powers of the Board over the spaces occupied by the sheds erected thereon by the New Orleans Sugar Shed Company is not extended by the Act, beyond those vested in the wharfingers prior to Act 70, 1896. Fleitas vs. City, 51 A. 1. (The old legislation and the cases relating thereto are reviewed in the opinion.)

Riparian proprietors who desire to build wharves on their lands on the river front, must obtain the consent of whatever body or functionary is by the legislative vested with authority over the river front at the time the consent is solicited. In New Orleans, this authority for private wharves is for the time being vested in the City council, under the provisions of Const. Art. 290. State ex rel. Ill. Cent. R. R. Co. et al. vs. Board of Levee Commissioners of Orleans Levee Dist. 109 L. 403. (This was a warmly contested case, and the final opinion, was rendered on rearguard.) Except as to consenting to the building of "private wharves, the State has granted authority over the public wharves to the Board of Commissioners of the Port of New Orleans, and the city has no power without the consent of the Board to authorize the construction and maintenance of a railroad on the wharves. Board vs. N. O. & S. F. R. Co. et al., 112 L. 1011. See also Saucier vs. City of New Orleans, 119 L. 178.

The levees in the city of New Orleans constitute the banks of the river, the batteure in front of the levees is dedicated to public use in the interest of commerce and navigation in their broadest sense; the riparian owner holds the naked title to the banks and cannot take possession or use them in any manner without the permission of the municipal authority, unless authorized by judgment of a competent court. The Board of Commissioners of the Port of New Orleans has plenary power to construct wharves, landings, roadways and other facilities for the purpose of maintaining and developing the commerce of the port. Injunction will not lie at the instance of a riparian proprietor, to prevent the Board from constructing a roadway for freight cars and vehicles across the batteure lying between the crown of the levee and the waters of the Mississippi River. Warriner et al. vs. Board of Commissioners, etc., 132 L. 1008.

Act 134, 1906, providing for a bond to be given for the protection of owner, subcontractor, workmen and furnishers of materials, has no application to the Board of Commissioners of the Port of New Orleans. It is a State agency and as a general rule public property is not subject to mechanics liens unless specially granted by statute. Barret Mfg Co. vs. Board, 133 L. 1022.

The Board cannot be held responsible for damages suffered by merchandise stored on the wharves and under the sheds. The funds and revenue of the Board are designated for certain fixed purposes and cannot be held for others. Lamport & Holt vs. Board, 137 L. 784.

## AUTHORITY TO ISSUE BONDS, ETC.

### Act 180 of 1908, p. 262.

#### TITLE.

AN ACT to authorize the Board of Commissioners of the Port of New Orleans to issue three million, five hundred thousand dollars (\$3,500,000.00) of five (5) per cent bonds, which shall be exempt from taxation; to authorize the exchange of so many of said bonds as may be necessary to retire valid outstanding obligations of said board, and to provide for the sale of the remainder thereof; to provide for the payment of the principal and interest of said bonds and the disposition of the proceeds thereof; to define the powers and duties of the Board of Commissioners of the Port of New Orleans and the Treasurer of the State of Louisiana in relation thereto; to continue said board in existence until the payment of said bonds; and to submit to the people an amendment to the Constitution of the State of Louisiana authorizing the issue of said bonds and ratifying the provisions of this Act.

#### PREAMBLE.

Whereas, the Board of Commissioners of the Port of New Orleans, created under the provisions of Act 70 of the General Assembly of the year 1896, as amended by Act No. 36 of the General Assembly of the year 1900,

is vested with the administration of the public wharves and landings of the port and harbor of New Orleans, and charged with the duty of extending, improving and maintaining the same and the appurtenances thereto; and

Whereas, said Board of Commissioners of the Port of New Orleans assumed the duties imposed on it by law, at the termination of the lease between the City of New Orleans and the Louisiana Construction & Improvement Company, on the 29th day of May, 1901; and

Whereas, said Board out of its revenues has, since said date, practically rebuilt the entire wharf system received from said Louisiana Construction & Improvement Company, built new wharves, erected steel sheds on the wharves and landings for the protection of merchandise in transit, constructed paved roadways and approaches thereto, provided suitable dredge and tugboats for dredging and fire protection purposes; has maintained sufficient depth of water and provided for the lighting and policing of the wharves, landings, sheds and appurtenances thereto; and

Whereas, on account of the growing commerce of the port and harbor of New Orleans it is now necessary that additional wharves be constructed and extensive enlargements and improvements of the system of wharves, landings, sheds and appurtenances be made so that the facilities for the handling of export and import cargoes in the port and harbor of New Orleans will be equal, if not superior, to similar facilities at any South Atlantic or Gulf port; and

Whereas, funds cannot be made available for these purposes except by the issue of bonds; and

Whereas, the said Board of Commissioners of the Port of New Orleans is assured that provision can safely be made from its revenues for the payment of the interest annually, and the payment of the principal at maturity, of three million five hundred thousand dollars (\$3,500,000.00) of five per cent bonds; and

Whereas, legislation providing for the issue of said bonds and recommending the submission to the people of an amendment to the Constitution of the State of Louisiana authorizing the issuance of said bonds and ratifying the provisions of this Act, is recommended by the Port Investigation Commission, created by Act No. 9 of the Extra Session of 1907; therefore:

**BOND ISSUE AUTHORIZED, SUBJECT TO RATIFICATION, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, two-thirds of all the members elected to each House concurring:

That, subject to the ratification of the people of the State of Louisiana, by the adoption of an amendment to the Constitution of the State, herein-after submitted to them, the Board of Commissioners of the Port of New Orleans, created by Act No. 70 of the General Assembly of 1896, as amended by Act No. 36 of the General Assembly of the year 1900, is hereby authorized and empowered, and it shall be its duty, to issue bonds not to exceed three million five hundred thousand dollars (\$3,500,000.00) in amount, dated January 1, 1909, bearing five per cent. per annum interest, payable semi-annually, the principal of which shall be payable at any time between July 1, 1924, and July 1, 1959. Said bonds shall be drawn payable to bearer and shall be styled "Port Commission Bonds." They shall be of the denomination of one thousand dollars (\$1,000.00) each, payable in lawful money of the United States, with semi-annual interest coupons attached, due July 1st and January 1st. They shall be signed by the President and countersigned by the Secretary of the Board of Commissioners of the Port of New Orleans. They shall be exempt from all taxation, State, parish and municipal, and the tutors of minors and curators of interdicts shall be authorized to invest the funds in their hands in such bonds. They may be registered and released from registry under such rules and regulations as may be prescribed by said Board of Commissioners of the Port of New Orleans, and no registered bond shall be negotiable. They shall be receivable on deposit with the State, or its officers, or any of its political subdivisions or municipalities, in all cases where, by law, deposits of bonds are required or allowed to be made as security, with the State, or its officers, or any of its political subdivisions or municipalities.

**EXCHANGE OF BONDS FOR OUTSTANDING OBLIGATIONS, ETC.**

Sec. 2. Be it further enacted, etc., That, as soon as the Constitutional authority for the issuance of said bonds shall have been obtained, it shall be the duty of the Board of Commissioners of the Port of New Orleans to cause said bonds to be engraved and executed. The Board of Commissioners of the Port of New Orleans is hereby authorized and empowered, on and after January 1, 1909, to exchange, at not more than par and accrued interest, so many of said bonds as may be necessary to retire outstanding obligations of said Board, coupons past due at the date of exchange to be detached and canceled by said Board before delivery of bonds; and said Board is hereby authorized and empowered to sell the remainder of said bonds, in whole or in part, in such manner, and upon such terms and conditions, as by said Board may be deemed advisable; provided, that no sale shall be made by said Board at a price which will net to the Board less than par and accrued interest. Coupons attached to said bonds, past due at the time of delivery, shall be detached and canceled by said Board before delivery of the bonds.

**PAYMENT OF INTEREST AND PRINCIPAL; APPOINTMENT OF MEMBERS OF BOARD.**

Sec. 3. Be it further enacted, etc., That the principal and interest of said bonds shall be paid by preference from the revenues of the Board of Commissioners of the Port of New Orleans, and all revenues collectible under the laws, as now existing, shall be and are hereby pledged to secure said bonds and interest. In no event shall the charges imposed by said Board, under the law now existing, be reduced to an amount less than necessary for the payment of the principal and interest of said bonds; and the Board of Commissioners of the Port of New Orleans, as presently organized and without diminution of existing territorial jurisdiction, shall continue in legal existence until all the bonds issued in accordance with this Act shall have been paid in principal and interest; provided that the members of said Board shall be appointed by the Governor, subject to removal by the Governor, and the Governor shall have power to fill all vacancies.

The interest on said bonds shall be evidenced by coupons attached thereto, payable semi-annually, by the Treasurer of the State of Louisiana, on the first days of July and January, and said Board shall place on deposit, on or before April 1, 1909, and on or before the first of April of every subsequent year, with the Treasurer of the State of Louisiana, to the credit of a special account to be styled "Interest Account," an amount equal to the annual interest on all bonds that may have been delivered. Said Treasurer is hereby empowered and directed, and it is made his duty, to pay any and all such coupons that may be due when presented by any holder thereof. In the year 1924, and annually thereafter, said Board shall, in addition to the amount of the annual interest due on the 1st of July, place on deposit, on or before April 1, with the Treasurer of the State of Louisiana, to the credit of a special account to be styled "Bond Redemption Account," a sum of one hundred thousand dollars (\$100,000.00), and the said Treasurer is hereby empowered and directed, and it is made his duty, to pay, on the 1st of July, of the year 1924, and annually thereafter, out of said Bond Redemption Account, one hundred (100) of said bonds in the reverse order of their issue; and all bonds and coupons retired under this Act shall be by said Treasurer duly canceled and delivered to the Board of Commissioners of the Port of New Orleans, which shall receipt for same, and which shall retain and paste the same as vouchers, in a book to be by it kept for that purpose. It shall be the duty of said Treasurer to require said deposits to be made as aforesaid; and in case of failure on the part of said Board to make said deposits, or to impose, under the law as now existing, the charges for the use of said wharves, landings, sheds and appurtenances thereto, or to collect the revenues therefrom, in an amount sufficient to provide for the payment of interest due or to become due, and the redemption of bonds as provided in this Act, said Treasurer is hereby empowered and directed, and it is made his duty, to impose said charges and collect said revenues, and to apply

the same to the purposes of this Act, and to that extent, and for that purpose only, and for such time as may be necessary to that end, the said Treasurer is hereby authorized to exercise all the powers and is charged with all the duties vested under existing law in the Board of Commissioners of the Port of New Orleans.

Note. This section does not extend the tenure of office of the members of the Board until the bonds shall have been paid. The only purpose of the section is to continue the legal existence of the Board of Commissioners as a body corporate until the bonds are paid. State ex rel. Pleasant, Atty Gen'l et al. vs. Dumser et al., 132 L. 967.

**ACT CONSTITUTES CONTRACT BETWEEN STATE BONDHOLDERS AND THE BOARD.**

Sec. 4. Be it further enacted, etc., That all of the provisions of this Act shall constitute a contract between the holder of the bonds issued thereunder, the State of Louisiana, and the Board of Commissioners of the Port of New Orleans.

**PURPOSES FOR WHICH PROCEEDS OF BONDS SHALL BE USED.**

Sec. 5. Be it further enacted, etc., That the Board of Commissioners of the Port of New Orleans shall, and it is hereby authorized and empowered to expend the proceeds of said bonds for the extension of existing wharves, for erecting sheds, for constructing roadways, and other improvements; for the purchase of suitable dredges, barges and tugboats; for the payment of wharves or other property purchased or expropriated, and for the payment of obligations heretofore contracted and outstanding; provided that no private property shall be taken without just and adequate compensation previously paid.

On the thirty-first day of December of each year, the said board shall furnish a detailed account of the receipts and expenditures to the Governor of the State; which report shall be published once in the official journal of the City of New Orleans.

**SUBMISSION OF AMENDMENT.**

Sec. 6. Be it further enacted, etc., That at the Congressional election to be held in this State on the first Tuesday following the first Monday of November, 1908, the following amendment to the Constitution of the State of Louisiana shall be submitted to the electors of the State, to-wit: "The Board of Commissioners of the Port of New Orleans shall have power, and it shall be its duty, to issue three million five hundred thousand dollars (\$3,500,000.00) of bonds to be known as 'Port Commission Bonds,' for the purposes and under the provisions and conditions set forth in the Act of the Legislature adopted to that end and for that purpose at the regular session of the General Assembly of 1908, which said Act is hereby ratified and approved; and all provisions of the present Constitution of the State in conflict with the provisions of this Act, and with this amendment are, to that extent and for that purpose only, repealed."

**FORM OF BALLOT.**

Sec. 7. Be it further enacted, etc., That on the official ballot to be used at said election shall be placed the words: "For the Port Commission Bond Amendment," and the words: "Against the Port Commission Bond Amendment," and each elector shall indicate his vote on the proposed amendment as provided by the general election laws of this State.

The amendment to the Constitution proposed in the act was submitted to the people at the election held on the 3d day of November, 1908, and adopted.

Note. Act 44, 1904, p. 98, authorizing Board to borrow \$2,000,000 repealed in fact, but not eo nomine.

Const. Arts. 321, 322 ratifies the bond issue, etc.

Note. See note to Act 70, 1896, printed at p. 1457.

**BOND ISSUE BY PUBLIC BELT RAILROAD COMMISSION.****Act 179 of 1908, p. 256.****TITLE.**

**AN ACT** to authorize the City of New Orleans to issue two million dollars (\$2,000,000.00) of five (5) per cent bonds, which shall be exempt from taxation; to provide for the sale thereof; to provide for the payment of the principal and interest of said bonds; to provide for the disposition of the proceeds thereof, through such Public Belt Railroad Commission as the City of New Orleans may have heretofore organized, or may hereafter organize, the members of which shall be appointed by the Mayor of the City of New Orleans, and the powers, duties and functions of which shall be prescribed by the City of New Orleans; to define the powers and duties of the City of New Orleans and the Board of Commissioners of the Port of New Orleans in relation thereto, and to submit to the people of the State of Louisiana an amendment to the Constitution of the State of Louisiana authorizing the issue of said bonds and ratifying the provisions of this Act.

**Note.** The title only of the foregoing act is printed, because, while it imposes certain duties upon the Port Commissioners, the act itself is yet of a local character, applicable to New Orleans alone. The amendment to the Constitution proposed in the act was submitted to the people at the election held on November 8, 1908, and adopted.

Const. Art. 323 relative to bonds issued by Public Belt R. R. Commission.

**Note.** See Bloomfield et al. vs. Thompson Commissioner of Public Utilities et al., 124 L. 923. Same vs. same, 126 L. 619.

**CONSTRUCTION, ETC. OF NAVIGATION CANAL.****Act 3, 1918, p. 5.****TITLE.**

**AN ACT** to promote the development of the port system of the port of New Orleans, and the Construction, Maintenance and operation of the Navigation Canal under Act No. 244 of 1914, adopted as a Constitutional Amendment; to provide for the Co-Operation of the Board of Commissioners of the Port of New Orleans, The Board of Levee Commissioners of Orleans Levee District, The City of New Orleans, The Public Belt Railroad thereof, and other corporations, in the construction of works rendered necessary by said canal and other improvements and works of said Port; and to authorize said bodies to contract with reference thereto.

Whereas due notice of intention to apply for this Act has been published in the City of New Orleans, at least thirty days prior to its introduction into the General Assembly, and due evidence thereof has been exhibited in the General Assembly.

**AUTHORITY TO DIG ETC. CANAL—LOCATION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana. The power of the Board of Commissioners of the Port of New Orleans to dig, build, erect and operate, or acquire and operate, the navigation canal in the City of New Orleans, together with necessary locks, slips, laterals, basins and appurtenances thereof, and other structures necessary therefor, to connect Lake Pontchartrain and the Mississippi River, in aid of Commerce, under Act No. 244 of 1914, adopted as an amendment to the Constitution of this State at the election held in November, 1914, and all the powers of the Board of Commissioners of said Port conferred by any other provision of the Constitution, are hereby recognized, declared and affirmed, and nothing herein contained shall be construed to in any manner limit, restrict or qualify the powers of the Board of Commissioners of said Port and the City of New Orleans by ordinance or otherwise to carry said Act No. 244 of 1914, and any other grant of power contained in said Constitution,

into full effect. This Act shall be liberally construed, to the end that the said Board of Commissioners of the said Port may fully exercise all the powers and authority conferred upon it by said Act No. 244 of 1914, and by any other constitutional provision.

#### AUTHORITY VESTED IN PORT COMMISSION.

Sec. 2. Be it further enacted, etc., The Board of Commissioners of the Port of New Orleans is hereby declared to be vested with full power and authority by virtue of said Act No. 244 of 1914, and by virtue of the other provisions of the Constitution of this State to enter into any and all contracts and agreements which may be necessary for the construction, maintenance and operation of said navigation canal, with the Board of Levee Commissioners of Orleans Levee District, the City of New Orleans, the Public Belt Railroad thereof, and other corporations, with respect to the construction of the said navigation canal, locks, slips, laterals, basin and other appurtenances, and with reference to the construction of any works required or authorized by law to be constructed upon or along the line of the said canal by the said Board of Levee Commissioners of the Orleans Levee District, the said City of New Orleans, the said Public Belt Railroad, or by other corporations.

#### LANDS ACQUIRED—EASEMENT OF LEVEE COMMISSION.

Sec. 3. Be it further enacted, etc., The Board of Commissioners of the Port of New Orleans hereby is declared to have power and authority in connection with the construction of the said canal, to enter into contracts and agreement with the Board of Levee Commissioners of Orleans Levee District (which said Board of Levee Commissioners is by statute and by joint resolution of this General Assembly approved July 6, 1916, known as Act No. 293 of 1916, adopted as an amendment to the Constitution of this State at the election of November, 1916, empowered among other things to construct and maintain levees and embankments over and in the bed and on the shores of Lake Pontchartrain and along the canals connecting therewith, and in such other places in the Parish of Orleans as said may determine) for the construction simultaneously with the construction of said Canal, of levees along the said canal and levees and flood-gates and other protection works and appliances, at the entrances or approaches thereto on the Mississippi River and in Lake Pontchartrain, and on and along the said navigation canal, and upon and along any locks, slips, laterals, basins and other appurtenances thereof, and said Board of Commissioners of the said Port is authorized to undertake the construction for the said Board of Levee Commissioners of the said levees, flood-gates and other protection works, and appliances, according to plans and specifications to be approved by the said Board of Levee Commissioners, the intention being that the said Board of Commissioners of the Port of New Orleans, whilst constructing the said canal, shall have power to do such construction work for levee and flood protection purposes, as said Board of Levee Commissioners may be authorized by law to construct, upon such provision for the reimbursement and re-payment to the said Board of Commissioners of said Port of the cost thereof, as may be agreed upon. Such contract or contracts shall provide for the re-payment or re-imbursement by the Board of Levee Commissioners of Orleans Levee District to the Board of Commissioners of the Port of New Orleans, of the cost and expense of such levees, flood-gates and other protection works and appliances, upon such terms and conditions as may be determined upon by said Boards and such compensation or cost may be paid in one or more installments, as may be fixed and determined upon by said contract or contracts, provided that if said compensation or cost shall be payable in installments, the said installments shall not extend beyond a period of fifty years from the date of such contracts. It shall be the duty of the said Board of Levee Commissioners and said Board is hereby authorized and empowered, and shall from year to year so long as necessary, levy, dedicate and appropriate such taxes within the limits prescribed by Article 239 of the Constitution, as shall be necessary to pay the said cost or com-

pensation. The construction of the said levees, flood-gates and other protection works and appliances shall proceed simultaneously with the construction of the said navigation canal system, and shall be undertaken by the Board of Commissioners of the said Port in connection with such construction, and any provision which shall be made by any contract entered into by the Board of Commissioners of said port and the said Board of Levee Commissioners for the payment or re-imbursement of said cost in installments shall be appropriated, dedicated and applied by the Board of Commissioners of said Port under the authority of said Act No. 244 of 1914, for the purpose of acquiring the necessary lands for the said canal and appurtenances and for the said levee works and for the payment of the cost of constructing the said canal and appurtenances and said levee works.

#### CONTRACTS WITH LEVEE COMMISSIONERS.

Sec. 4. Be it further enacted, etc., That any lands acquired by the Board of Commissioners of said Port for the construction of the said navigation canal, and any locks, slips, laterals, basins and appurtenances thereof, shall be subject to an easement or servitude for levee purposes, to the extent that shall be necessary for the construction of the said levees, flood-gates and other protection works and appliances, but the location of any levees, floodgates and other protection works and appliances along the said canal or its appurtenances, upon lands acquired by said Board of Port Commissioners for canal purposes, shall be fixed and determined by the Board of Levee Commissioners of Orleans Levee District, with the approval and ratification of the Board of Commissioners of said port. The said Board of Levee Commissioners shall for levee purposes, have full power, control and supervision over any levees constructed along the said canal, but shall not exercise such supervision and control in any manner which will unnecessarily interfere with the use of the said canal, locks, slips, laterals, basins and appurtenances, and the banks thereof, or with the erection and maintenance of necessary buildings and structures thereon, for the purpose of commerce, and navigation, and shall have the right to authorize the location and erection or consent to the location and erection of the tracks, sidings, switches, spurs, cross-overs, etc., of the Public Belt Railroad of the City of New Orleans, and other necessary structures and buildings incident to said railroad along and upon the said levees and levee works upon such terms and conditions as may be agreed upon by the City of New Orleans; the Public Belt Railroad Commission, and the Board of Commissioners of said Port.

#### CONTRACT WITH CITY OF NEW ORLEANS.

Sec. 5. Be it further enacted, etc., The said Board of Commissioners of the Port of New Orleans, is hereby authorized to contract with the City of New Orleans, or with any public body or board thereof, or any railroad corporation, upon such terms and conditions as shall seem just, for the building and construction of bridges over said canal and for other works that may be necessary, and may in connection with the construction of the said canal, contract and agree with the said City or with any of its public boards or bodies or with any railroad corporation, to undertake the work of building and erecting such bridges, sewers, water mains, or other works, if the said Board of Commissioners deems it expedient, upon such terms and conditions as to the payment of the cost thereof as may be agreed upon by said Board of Commissioners of said port, and said City or public body or corporation.

#### AUTHORITY TO CONTRACT GENERALLY.

Sec. 6. Be it further enacted, etc., The said Board of Commissioners of the Port of New Orleans, and the said Board of Levee Commissioners are hereby authorized and empowered to make and enter into from time to time, such contracts and agreements as they may deem necessary and expedient in relation to the maintenance of the said levee works on the said canal and elsewhere and for the construction and maintenance of additional levee works thereon and elsewhere, and for the apportionment and distribution of the cost and expense thereof.

**EFFECT ON ACT 244, 1914, ADOPTED AS AMENDMENT TO CONSTITUTION.**

Sec. 7. Be it further enacted, etc., That nothing herein contained shall be construed to in any manner impair or affect the power conferred by said Act No. 244 of 1914 adopted as a constitutional amendment, upon the Board of Commissioners of said Port, to pay for the said canal and appurtenances, and for the lands necessary therefor, by mortgage or mortgages, bond or bonds or the plenary power of the said Board of Commissioners to carry out the power so conferred upon them by said Act No. 244 of 1914, or by any other provision of the Constitution of this State, and it is hereby declared that the said Board of Commissioners of the Port of New Orleans, for the purpose of constructing the said canal, works and other improvements, and acquiring the said real estate, be and it is hereby authorized to make, execute and record a mortgage in such form as the said Board of Commissioners shall deem proper, to secure bonds to be issued for the purposes aforesaid, in such amount as in the opinion of said Board of Commissioners is necessary, and to sell the said bonds from time to time, in such amounts as may be necessary; that the said mortgage shall from the date of its execution and delivery, be a good and valid lien upon all property acquired and works constructed by the said Board of Commissioners for the said purposes, to the full amount specified therein, and any and all lands acquired, and any and all canals and works constructed, shall from the time of acquisition and construction thereof, be subject to the lien of the said mortgage, which shall attach to and effect the title of the said Board of Commissioners to the same, when and as the said lands are acquired, and the said canal, locks, and other improvements are constructed, the intention being to carry out the said Act No. 244 of 1914, adopted as a constitutional amendment as aforesaid, according to its tenor and effect, and to give to the bond holders and any trustee named in said mortgage a first and prior lien and charge on the lands, canals and works for the acquisition or construction of which they have advanced or shall advance money to the said Board of Commissioners, and upon all receipts and revenues from such canals and works and any sums of money which may be paid to the said Board of Commissioners by any other public body in respect of work performed by them in connection with the construction of the said canal and appurtenances, or incident to or in connection therewith, or from the leasing of any portion of said lands or privileges thereon, the said right to lease being hereby recognized. Any lands acquired by the Board of Commissioners of the Port of New Orleans for the purpose of constructing the said canal, together with the necessary locks, slips, laterals, basins and appurtenances thereof, and other structures necessary therefor, after the making and delivery of the said mortgage shall immediately on the execution thereof be affected by and come under the lien of the said mortgage, and the title of said Board of Commissioners to such additional lands shall be acquired by the Port subject to the lien of the said mortgage. In such mortgage a fiduciary or trustee for the holders of the bonds secured thereby may be named, as mortgagor in trust for the benefit of the bond holders, and such fiduciary or trustee, or its successor appointed in such manner as shall be provided by ordinance of said Board of Port Commissioners, shall be irrevocably appointed a special agent and representative of the holders of said bonds, with full power in their behalf to effect and enforce the mortgage for their benefit in the manner and form therein specified, and as conventional mortgages by individuals are effected and enforced. The Bonds secured by such mortgage need not be paraphed, provided such bonds shall refer to said act of mortgage in such form or manner as shall be sufficient to identify the same. Such mortgage may also pledge the net receipts of the said canal and appurtenances after payment of operating expenses, including any sums which may be paid or become payable to the said Board of Port Commissioners by any public body in respect of work performed simultaneously with or as an incident to or under agreement in relation to the construction of the said canal and appurtenances or rights, privileges and easements granted, and the lien on the said net receipts shall attach to the same as and at the time of the making and execution of said mortgage.

**APPLICATION OF PROCEEDS OF BONDS.**

**Sec. 8.** Be it further resolved, etc., That the proceeds of any bonds issued by said Board of Commissioners of the Port of New Orleans, under the power and authority conferred upon them by said Act No. 244 of 1914, adopted as a constitutional amendment as hereinbefore recited, and by this act, shall be and the same are hereby set apart, appropriated and dedicated for the acquisition of lands for the said canal, works, structures and other improvements, and for the erection and construction of the said canal, together with the necessary locks, slips, laterals and appurtenances thereof, and other structures necessary therefor, or incident thereto, and for any works which may be undertaken by said Board of Commissioners of the Port of New Orleans under the agreement with the Board of Commissioners of Orleans Levee District, or any other public body in connection with the construction of the said canal, and no part of the proceeds of any bonds authorized by said Act No. 244 of 1914, or by this Act shall be expended for any other purpose. Said bonds shall have and possess all the privileges conferred upon the bonds issued under the provisions of Act 180 of 1908.

**REPEALING CLAUSE.**

**Sec. 9.** Be it further enacted, etc., That this act shall take effect from and after its promulgation.

Note. Act 180, 1908, printed at p. 1468.

## **AUTHORITY TO SELL, ETC., LANDS TO UNITED STATES GOVERNMENT.**

**Act 34 of 1918, p. 43.**

**TITLE.**

**AN ACT** to further promote the development of the Port System of the Port of New Orleans, and to authorize the Board of Commissioners of the Port of New Orleans to change the dedication of lands and property under its control from State to Federal use, and to sell, lease, or otherwise alienate same to the United States Government, or any of the Department thereof.

Whereas due notice of intention to apply for this Act has been published in the City of New Orleans, at least 30 days prior to its introduction into the General Assembly, and due notice thereof has been exhibited in the General Assembly.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana: The power and authority of the Board of Commissioners of the Port of New Orleans to change the dedication of particular parcels or portions of lands and property under its administration or control from a State to a Federal use; and to sell, lease or otherwise alienate to the United States Government, or any department thereof, any of said lands and property which may be needed for Federal purposes is hereby recognized, declared and affirmed.

**Sec. 2.** Be it further enacted, etc., The Board of Commissioners of the Port of New Orleans is authorized by Ordinance, contract or otherwise, to carry the provisions of this Act into effect.

**Sec. 3.** Be it further enacted, etc., This act shall take effect from and after its promulgation, and all laws or parts of laws in conflict or inconsistent with the provisions thereof, be, and the same are, hereby repealed.

## NOTARY PUBLIC.

**[Governor to Appoint as Many as May be Deemed Necessary.]**

[R. S., Sec. 2491.] The Governor of this State be, and he is hereby authorized to appoint, by and with the consent of the Senate, as many notaries public in the different parishes of the State, as he may deem necessary.

**[Powers of Notaries.]**

[R. S., Sec. 2492.] Notaries Public shall have power within their several parishes, to make inventories, appraisements, partitions, to receive wills, make protests, matrimonial contracts, conveyances, and generally all contracts and instruments of writing; to hold family meetings and meetings of creditors; to receive acknowledgments of instruments under private signature; to affix the seals upon the effects of deceased persons, and to raise the same; and all acts executed by them, in conformity with the provisions of article two thousand two hundred and thirty-one of the Civil Code, shall be authentic acts.

**Note.** The purchaser of a slave deposited the purchase money with a notary to pay for the slave, when the act of sale was passed. The title proved defective and the notary failed to return the money to the depositor. Held, that the surety on the bond of the notary was not liable. The receipt of money on deposit for the purpose set out is not within the official capacity of the notary, and the surety is not liable for other than official acts. Monroe vs. Brocard, et al., 20 A. 78. A purchaser of property who deposits the purchase price with the notary, without the consent of the vendor, cannot recover the money from the vendor, when the notary absconds and the act of sale to the property is not completed. Brown vs. Schmidt, 7 A. 349. Money was deposited with a notary to erase a certain mortgage on the depositors property. The notary failed to do this and absconded. Held, the surety on the notary's bond was not liable. The receipt of money for the purpose mentioned, is not within the scope of the official duties of the Notary, and for these alone the surety binds himself. Lescouzenet vs. Ducatel, 18 A. 470.

A mortgage debtor having paid the notes, took them to a notary public in order that he might have them cancelled. The notary instead sold the notes—and the purchaser foreclosed on them. Held that the surety on the bond was liable, as the preparation of acts for the cancellation of mortgages was an official duty which the law authorized the notary, to perform, and for which the bond is furnished, Storch et al. vs. American Surety Co., 160 L. 713.

The obligations of a surety on the bond of a notary must be strictly construed and must not be extended beyond the intent of the law. Schmidt et al. vs. Drouet, 42 A. 1084. It is not part of his duty as notary to solicit or receive money for investment, and the security on the bond is not liable for misappropriation. Nolan vs. Labatut, 117 L. 451. Cases are referred to in the cases cited.

See note to R. S. Sec. 2008; to Act 42, 1890, at p. 1473.

**[Oaths They May Administer.]**

[R. S., Sec. 2493.] They shall have the right to administer oaths, *quoad* the duties of their office, and such oaths as may be necessary to enable free white citizens of the United States to procure their protection certificates from the regularly authorized officers of the Customs of the United States.

**Note.** One who is publicly acting as the deputy of a notary, and whose oath of office has been administered by the notary himself, is qualified to make demand of payment of a note and perform the other functions of a deputy notary. Buckley vs. Seymour, 30 A. 1341.

### MAY TAKE OATHS AND ACKNOWLEDGMENTS.

**Act 7, E. S. 1917, p. 10.**

**TITLE.**

**AN ACT** authorizing Notaries Public to administer oaths and take acknowledgments.

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That from and after the passage of this act, oaths and acknowledgments, in all cases, may be taken or made by or before any notary public duly appointed and qualified in this State.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws inconsistent herewith be and the same art hereby repealed.

**Note.** Act 140, 1896, p. 219, Notaries in Other States, may take acknowledgments, etc., thereof; act printed at p. 289.

#### [**Acts Must be Executed in Office—Exceptions.**]

**[R. S., Sec. 2494.]** All notarial acts shall be made and executed in the office of the Notary, unless where the illness of the party, or some other sufficient cause, shall prevent him from attending in such office.

#### [**Marital Status Must be Given in Act.**]

**[R. S., Sec. 2495.]** (As amended by Act 122, 1908, p. 179.) Whenever they shall pass any acts they shall be bound to give the marital status of all parties to the act, viz:

If either or any party or parties are men, they shall be described as single, married, or widower. If married or widower the Christian and family name of wife shall be given. If either or any party or parties are women, they shall be described as single, married or widow. If married or widow, their Christian and family name shall be given, adding that she is the wife of or widow of . . . . . , the husband's name.

#### [**Christian Names Must be Given in Full.**]

**[R. S., Sec. 2496.]** They shall insert in their acts the Christian names of the parties in full and not with their initial letters alone.

#### [**Penalties for Violating Sections 2495 and 2496.**]

**[R. S., Sec. 2497.]** All Notaries or other persons acting as such, contravening the provisions of the two preceding sections, shall be liable to a fine of one hundred dollars, to be recovered before any court of competent jurisdiction, one-half for the benefit of the informer.

**[R. S., Sec. 2498.]** Register of Mortgages to refuse certificates to persons whose Christian or first names designated by letters alone. R. S., Sec. 3146, title "Recorder."

#### [**Notaries, Etc., Must Keep Office in Brick Building.**]

**[R. S., Sec. 2499.]** Every Notary Public or other officer in the city of New Orleans, having the custody of public records, shall keep his office in a brick building covered with tiles, slates or terrace, in default whereof he shall be deprived of his office.

#### [**Leaves of Absence, How Granted.**]

**[R. S., Sec. 2500.]** The Governor shall be authorized to grant leave of absence to Notaries Public for a period not exceed-

ing eight months, to date from the day of the permission granted by the Governor.

Notaries Public thus permitted to absent themselves shall be required to name and signatede another Notary Public to represent them during their absence.

[**R. S., Secs. 2501, 2502.**] Notaries outside New Orleans must deposit acts with Recorder of Parish. R. C. C., Art. 2251.

**[Appointment of Notary—Bond, Etc.]**

[**R. S., Sec. 2503.**] (As amended by Act 40, 1886, p. 53.) Any male citizen of the State may be appointed a Notary Public in and for the Parish in which he resides, upon giving bond with good and solvent security, in the sum of five thousand dollars for the Parish of Orleans, and one thousand dollars for the other parishes of the State, conditioned for the faithful performance of all duties required by law toward all persons who may employ him in his profession of notary; and after being examined by any judge of the Supreme Court, Circuit or District Court of the State, and after having received a certificate of having been found competent on such examination, to exercise the profession of a notary public.

**Note.** The sureties on the official bond of a notary public are liable for any loss or damage caused by his affixing his notarial paraph to a mortgage note which he knew to be forged. Anyone injured by this act, has a right of action on the bond against the sureties. The illegal cancellation of a bond will not release the sureties for the official delinquency of the principal. *Rochereau vs. McJones*, 29 A. 82.

The prescription of one year is not applicable to an action brought upon the bond of a notary public for failure to perform the duties incumbent upon him. *Weintz vs. Kramer*, 44 A. 35.

A notary and his sureties are liable for his failure to observe the requirements of law in confecting a last will and testament by public act, when his failure causes the loss of a legacy. The measure of damages is the amount the legatee would have received under the will. *Weintz vs. Kramer*, 44 A. 35. See note to R. S. Sec. 2492; to Act 42 of 1890, at p. 1473.

**[Before Whom Bond Shall be Executed.]**

[**R. S., Sec. 2504.**] Said bond shall be executed before the clerk of any of the district courts, and, with the certificate of examination by any judge of the Supreme Court, district or parish courts of the State, be filed with the Auditor of Public Accounts.

**[Bonds Must be Renewed Every Five Years.]**

[**R. S., Sec. 2505.**] All notaries shall renew their bonds every five years; and may be suspended by any judge of the Supreme Court or district courts of the State for failure to pay over money intrusted to them in their professional character, for failure to satisfy any final judgment rendered against them in such capacity, or for other just cause.

**Note.** Failure of a notary to record his bond with the auditor of State is cause for suspension, but it does not ipso facto vacate the office. Until suspended he is de jure and de facto an officer, and his acts as notary are valid. *Monroe vs. Liebman*, 47 A. 155. As to suspension of notaries at the instance of the State, see *State vs. Laresche*, 28 A. 20. See note to R. S. Sec. 2492, 2503; to Act 42, 1890, at p. —.

**[Notaries Continue to Act as Long as They Renew Bonds.]**

[R. S., Sec. 2506.] All notaries now exercising functions as such, as well as those to be qualified under the provisions hereof, are authorized, and shall continue, to act as such so long as they shall renew their bonds, unless suspended by the Supreme Court.

[R. S., Secs. 2507 to 2510, inclusive.] Separate Book for Notices of Protest; value of protest as proof, etc. Notice, how given, etc. See R. S., Secs. 325 to 328, title "Bills and Notes."

[R. S., Sec. 2511.] Stealing and Destruction of Notarial Records. R. S., Sec. 876, title "Crimes and Offenses."

**[Notaries to Record Marriage Contracts, etc.]**

[R. S., Sec. 2512.] And it shall likewise be the duty of notaries public and other officers performing their duties, to cause marriage contracts and other acts which are executed before them, and from which any legal mortgage is derived in favor of a married woman, on the property of her husband, to be recorded in the same manner as aforesaid.

**[Liability of Officers for Failing to Record.]**

[R. S., Sec. 2513.] The judges, clerks and notaries who shall fail to cause the legal mortgages which exist in favor of minors, interdicted, or absent persons, or in favor of married women, to be recorded as herein provided for, shall be liable in damages towards any person who shall suffer thereby, and shall be subject to be removed from office.

**[Dispensing With Mortgage Certificate.]**

[R. S., Sec. 2514.] The parties to a notarial act may, by written clause in the act, dispense with the certificate of mortgage required by article three thousand three hundred and twenty-eight of the Civil Code, and the notary or parish recorder shall not in such case be entitled to charge for such certificate.

[R. S., Sec. 2515.] Notice for family meeting delivered by notary in whose office meeting will be held is equivalent to legal notice. R. C. C., Art. 288.

[R. S., Sec. 2516.] To have effect against third persons, notarial acts concerning immovables must be recorded. R. C. C., Art. 2264.

[R. S., Sec. 2517.] Method of recording authentic acts and acts under private signature. R. C. C., Art. 3348.

[R. S., Sec. 2518.] Married women above age of twenty-one may renounce matrimonial, dotal, paraphernal and other rights—notarial act, consent of husband, etc. R. C. C., Art. 129.

**[Acts of Sale Not to be Executed Unless Taxes Paid.]**

**[R. S., Sec. 2519.]** (As amended by Act 88, 1888, p. 148.) Hereafter neither recorders, sheriffs, notaries, throughout the State, nor other persons authorized to convey real estate by public act, shall pass or execute any act for the sale, transfer or exchange of any real estate unless the State, parish and municipal taxes due on the same for three years next preceding the passage of the act of transfer be first paid, to be shown by the tax collector's receipt or certificate for that purpose.

**Note.** The conduct of the notary in passing an act transferring Real Estate, before all taxes were paid, does not render the act void. The act if otherwise regular should be admitted in evidence and is a basis for commencement of title, Gulf States Land & Mfrg Co. vs. Wade, 51 A. 251. The judicial sale of real estate does not have the effect of discharging it from the tax liens and privileges and to refer them to the proceeds, until the taxes are paid. The title to the property is in *statu quo*. *Sue. of Girardey*, 42 A. 497; see *Dunlap vs. Whitmer*, 133 L. 318.

**[Penalty for Violating Preceding Sections.]**

**[R. S., Sec. 2520.]** The recorders, sheriffs, notaries public, or other persons violating the provisions of the preceding sections, shall, upon conviction thereof, be fined in a sum of not less than fifty nor more than two hundred dollars for each violation, to be recovered by the district attorney, for the use of the free schools before any competent tribunal.

**Note.** See note to R. S. Sec. 2519.

**[R. S., Sec. 2521.]** Appointment, Bond, Sureties, etc., for New Orleans. Superseded by Act 42, 1890, printed *infra*.

**NOTARIES FOR NEW ORLEANS.****Act 42 of 1890, p. 34.****TITLE.**

**AN ACT relative to notaries public for the Parish of Orleans, and regulating their appointment, bond, qualifications, duties and obligations, providing for the testing of said bonds, and prescribing certain penalties.**

Whereas, due notice of the intention to apply for the passage of this act has been advertised for thirty days in the City of New Orleans, as provided in Article 48 of the Constitution of this State.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all notaries public now commissioned for the Parish of Orleans, shall, within sixty days from the promulgation of this act, furnish bond for the sum of ten thousand dollars each, with one or more good and solvent sureties, subscribed in favor of the Governor of the State, and conditioned upon the faithful performance of their duties as such; said bond shall be approved by the presiding judge of the Civil District Court for the Parish of Orleans, and it shall then be recorded in the office of the Register of Conveyances in and for the Parish of Orleans, in a special book kept for that purpose, and shall be filed in the office of the Secretary of State, who shall issue at once to the notary furnishing the bond, a certified copy of such bond, including the approvals and endorsements as filed in his office; which certified copy of said bond, with the approvals and endorsements thereon, shall be hung up in the office of the notary in a conspicuous place.

Said notaries shall also furnish to the Secretary of State, within the said delay, their official signature and the impress of their official seal, to be filed in the office of the Secretary of State.

**Sec. 2.** Be it further enacted, etc., That it shall be the duty of the Secretary of State, after the expiration of the aforesaid delay, and within ninety days from the promulgation of this act, to publish three times in ten days in one of the French and one of the English daily newspapers published in the City of New Orleans, a complete list of all notaries public who have complied with the provisions of the preceding section of this act.

**Sec. 3.** Be it further enacted, etc., That any notary public failing to furnish his bond, official signature and the impress of his official seal as above provided, within the delay of sixty days from the promulgation of this act, shall by such failure cease to be a notary public for the Parish of Orleans, and his commission as such notary shall be revoked by the Governor; and notice of said revocation shall be published as provided in section 2.

**Sec. 4.** (As amended by Act 239, 1916, p. 508.) Be it further enacted, etc., That no appointment of notaries public in and for the Parish of Orleans shall be made by the Governor of this State unless the number of those holding commissions be less than one hundred and eighty-five, which shall be the limit of the notaries as hereinafter provided.

**Sec. 5.** (As amended by Act 239, 1916, p. 508.) Be it further enacted, etc., That from and after the passage of this act whenever the number of notaries public for the Parish of Orleans shall be less than one hundred and eighty-five, the Governor of this State shall, by and with the advice and consent of the Senate and upon a certificate of competency granted by the Supreme Court of Louisiana, as hereinafter provided, make the necessary appointment of notaries public to fill vacancies within the limit of one hundred and eighty-five aforesaid.

**Sec. 6.** (As amended by Act 187, 1902, p. 367.) Be it further enacted, etc., That any male citizen of the State over twenty-one years of age, a resident of the Parish of Orleans for at least two years next preceding his appointment, being of good moral character, integrity, competency and sober habits, may be appointed under the provisions of this act, a notary public in and for the Parish of Orleans, upon giving bond with one or more good and solvent sureties, in the sum of ten thousand dollars subscribed in favor of the Governor of the State, and conditioned as the law directs for the faithful performance and discharge of his duties as a notary public, which bond shall be approved by the presiding judge of the Civil District Court for the Parish of Orleans, and recorded in a special book kept for that purpose in the Conveyance Office of the Parish of Orleans, and upon complying with the requirements of this act.

**Sec. 7.** Be it further enacted, etc., That every applicant for a commission as notary public for the Parish of Orleans, shall give, during ten consecutive days, public notice in one of the daily papers published in the City of New Orleans, of his intention to apply for said commission; and upon producing to the Supreme Court of this State proof of said publication, together with a certificate establishing his citizenship, residence and character, as provided above, sworn to and subscribed by at least two reputable citizens of this State, the Supreme Court of this State may then proceed to examine said applicant in open court; and if he be found competent and possessed of the necessary qualifications, shall issue to him a certificate accordingly, signed by at least three judges of said Supreme Court. The public examination herein provided for may be dispensed with by the Supreme Court, if the applicant produces proof of his having previously obtained a certificate from the said court.

**Sec. 8.** Be it further enacted, etc., That before the Governor of this State shall issue to the applicant a commission of notary public for the Parish of Orleans, he shall require of him the production of:

1st. A certificate as above provided for, signed by at least three judges of the Supreme Court of this State.

2nd. His oath of office.

3rd. His bond, properly executed, approved and registered in the Conveyance Office, as provided above.

4th. His official signature, and

5th. The impress of his official seal, all of which shall, upon the issuing of said commission, be deposited in the office of the Secretary of State and annexed in the margin of a book to be kept for that purpose by the said Secretary of State to be styled "The Notarial Book of Orleans Parish."

Sec. 9. Be it further enacted, etc., That all notaries public for the Parish of Orleans shall renew their bonds every five years or whenever one or both sureties on their bonds shall die or become insolvent, and they shall continue to act as such notaries so long as they shall renew their bonds, unless suspended or removed for cause.

Sec. 10. Be it further enacted, etc., That it shall be the duty of the District Attorney of the Parish of Orleans to institute proceedings by rule in the Civil District Court of said Parish at least once every twelve months, and oftener if he deem it proper and necessary, on all notaries in said parish to test the surety on their official bonds, and should the sureties on said official bonds so tested, be judicially declared not good and solvent as required by law, the notary whose surety has been so declared shall pay costs of said rule, and shall be allowed thirty days within which to give a new bond, and on his failure to do so within that time shall forfeit his commission and turn over his notarial archives and records to the custodian of notarial records.

Provided, That he shall not be entitled to act as a notary during said period of thirty days; and,

Provided, further, that should anyone ceasing by removal or otherwise to be a notary subsequently again be appointed to that office he shall be entitled to recover and obtain his said notarial records and archives from the custodian of notarial records.

Sec. 11. (As amended by Act 22, 1912, p. 28.) Be it further enacted, etc., That it shall be the duty of every Notary Public for the Parish of Orleans to keep and preserve in his office and under his custody, the original of all acts, contracts and instruments of writing executed before him with the exception only of affidavits and instruments under private signature, which may be acknowledged or proved before him, and depositions of witnesses, and he shall cause the said acts, contracts and instruments of writing to be bound in separate volumes for each year, with complete indices attached to each volume, which, together with the protests made by him, will constitute the archives of his office. It shall be the duty of the District Attorney of the Parish of Orleans, at the time of the trial of the rule provided in the preceding section 10, to require evidence from every notary public that he has caused his acts to be bound and indexed in the manner aforesaid before the first day of March of the year following their date, and in case it shall then appear that any notary public shall have neglected to comply with the provisions of this statute, the Court shall allow thirty (30) days to said notary within which to index and bind his acts; and on his failure so to do within that time, he shall forfeit his commission and turn over his notarial archives to the custodian of Notarial Records in the same manner as providing in the preceding section 10 for the failure to furnish a proper bond.

Sec. 12. (As amended by Act 22, 1912, p. 28.) Be it further enacted, etc., That every notary public in and for the Parish of Orleans shall keep his office in a building covered with tile, slates or terrace, and keep such office open, for the ready examination of his records, every day from the hour of 10 o'clock a. m. to 3 o'clock p. m., Sundays and holidays excepted. Any notary public violating the provisions of this section shall, on proof thereof before the Criminal Court for the Parish of Orleans be condemned to pay a fine of twenty-five dollars (\$25.00) for each and every day he shall deprive the public from access to his records; and on failure to pay such fine and in case he should continue for a period of ten successive days in the violation of the provisions of this section, he shall forfeit his commission and he shall be required to turn over his archives to the Custodian of Notarial Records.

**Sec. 13.** Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with the provisions of this act be and the same are hereby repealed.

**Sec. 14.** Be it further enacted, etc., That this act shall take effect from and after its passage.

Note. The bond of a notary guarantees not only his honesty, but also his competency and where a will by public act is annulled because the notary failed to state the residence of the witnesses, in the manner required by law, he and his sureties are liable to the legatee. Such a cause is not prescribed by one year, Wentz vs. Kramer, 44 A. 35. The bond of the notary inures to the benefit of any one who may sustain a loss by reason of the failure of the notary to faithfully discharge his duties, so the surety on such a bond is liable to the holder of a note, which the notary had forged and thereafter paraphed and subsequently transferred for a present consideration as a note with a genuine signature. The surety on the bond is not liable where money is placed with the notary for investment. Nolan vs. Labatut, 117 L. 431. (The case was apparently well contested and the opinions rendered original and on rehearing/review the preceding jurisprudence and seek to lay down the distinction between acts which are done in the capacity of a notary and those which are not. For the former the bond is liable, for the latter it is not.) See notes to R. S. Sec. 2492, 2503.

The temporary deposit of their acts by notaries in New Orleans with the Register of Conveyances, for the purpose of having them inscribed in the books of his office, gives them the same effect against third persons, as the permanent deposits of the acts required in the parishes other than Orleans. Schneldan vs. New Orleans Land Co., 132 L. 263.

## DEPOSIT OF ACTS IN OTHER PARISHES BY NOTARIES IN NEW ORLEANS.

### Act 233 of 1912, p. 521.

#### TITLE.

AN ACT requiring notaries public in the City of New Orleans to deposit in the office of the clerk and recorder of the parish in which the property is situated, whenever the property affected is situated outside the City of New Orleans, the original of all acts of sale, exchange, donation and mortgage of immovable property, passed before them, and fixing a penalty for the violation of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of all notaries public within the City of New Orleans to deposit in the office of the clerk and recorder of the parish in which the property is situated, whenever the property affected is situated in this State, outside the City of New Orleans, within fifteen days after the same shall have been passed, the original of all acts of sale, exchange, donation and mortgage of immovable property, passed before them, together with all resolutions, powers of attorney and other documents annexed to or made part of said acts, and in order of their respective dates, first making a careful record of said acts in record books to be kept for that purpose.

**Sec. 2.** Be it further enacted, etc., That all notaries who contravene the provisions of this Act shall be liable to a fine of one hundred dollars for each infraction of the same, to be recovered before any court of competent jurisdiction, one-half for the benefit of the informer, as well as for all such damages as the parties may suffer thereby.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with this Act be and the same are hereby repealed.

#### [Release of Mortgages Furnished by Notaries.]

[R. S., Sec. 2522.] The recorder of mortgages of the parish of Orleans be, and he is hereby authorized and required, on the application in writing of any notary, or the legal representative of any notary in said parish whose bond furnished under the second section of the Act of the General Assembly of this State, entitled "an Act relative to notaries in New Orleans," approved

March 14th, 1855, may have been recorded in the office of said recorder of mortgages, to erase and cancel from his books the mortgage resulting from said inscription; *Provided*, It shall be made to appear to the said recorder, by a certificate of the register of conveyances of said parish, that such notary has furnished and recorded in the office of the said register of conveyances a bond, as required by the second section of the Act of the General Assembly of this State, entitled, "An Act relative to notaries public in and for the parish and city of New Orleans," approved March 12th, 1857.

[**Fees of Recorder of Mortgages.**]

[R. S., Sec. 2523.] For the services required by this Act the said recorder of mortgages and register of conveyances shall receive from the party applying therefor the fee established by law for issuing a certificate or erasing a mortgage, and no more.

[R. S., Sec. 2524.] Must record every act concerning immoveable property within forty-eight hours. R. C. C., Art. 2255.

[R. S., Sec. 2525.] No appointment until applicant has obtained certificate from Supreme Court. Superseded by Act 42, 1890, printed *supra* this title under R. S., Sec. 2521.

[R. S., Sec. 2526.] Register of conveyances, etc., must affix certificate to each act, showing registry. R. C. C., Art. 2256.

[**Notary May Have Deputies to Make Protests, Etc.**]

[R. S., Sec. 2527.] It shall be lawful for each and every Notary Public in New Orleans to appoint one or more deputies to assist him in the making of protests and delivery of notices of protests of bills of exchange and promissory notes; provided that each Notary shall be personally responsible for the acts of each deputy employed by him. Each deputy shall take an oath faithfully to perform his duties as such. The certificate of notice of protest shall state by whom made or served.

*Note.* One who is publicly acting as the deputy of a notary, and whose oath of office has been administered by the notary himself, is qualified to make a demand of payment of a note, and perform the other functions of a notary. Buckley vs. Seymour, 30 A. 1341.

[**Certificates of Non-alienation.**]

[R. S., Sec. 2528.] It shall be the duty of every notary public and sheriff of the parish of Orleans, before passing any act or deed of sale, to demand a certificate from the register of conveyances showing that the vendor had not alienated in any other way the property about to be sold by him, said certificate to give a clear description of said property, and the fee of two dollars for said certificates each shall be paid by the vendor of said property.

*Note.* The notary was charged—*inter alia*—with failing to obtain a certificate of non alienation, before passing an act of transfer. An exception to the suit was maintained. On appeal the judgment was reversed and remanded for trial. State vs. Laresche, 28 A. 26. As to the liability of the Register of Conveyances, who issues the certificate. See Gordon vs. Stanley, 108 L. 182.

**[Penalty for Failing to Obtain Certificate.]**

**[R. S., Sec. 2529.]** Any notary public or sheriff in the parish aforesaid neglecting to procure the aforesaid certificate before passing any sale as aforesaid, shall be liable to a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, and costs of court, one-half for the benefit of the complainant and the other half for the benefit of the State.

**[R. S., Sec. 2530.]** Registry of acts in certificate of notary, what certificate must show. R. C. C., Art. 2259.

**[Protests in Parish of Orleans, in Country Parishes.]**

**[R. S., Sec. 2531.]** Notaries Public in the City of New Orleans are empowered to protest bills of exchange, notes and other negotiable effects throughout the Parish of Orleans, and in default of notaries and parish recorders in the country, any justice of the peace may protest promissory notes and bills of exchange in the presence of two persons residing in the parish, who shall certify and subscribe the same as witnesses

**[R. S., Secs. 2532 to 2542.]** Depositions by Clerks, Notaries, how taken, how used on trial, objections, etc. R. S., Secs. 614 to 623, title "Commissioners to Take Testimony, etc."

**[Central Office of Notarial Records.]**

**[R. S., Sec. 2543.]** A central office of notarial records shall be, and the same is hereby, established in the city of New Orleans, for the purpose of preserving the records of such notaries in the parish of Orleans who officially shall have ceased to be such, either by death, removal or otherwise, whose records are not now in the custody of some other notary.

**[Custodian of Notarial Records.]**

**[R. S., Sec. 2544.]** The office established by the first section of this act shall be under the charge of a notary public, duly commissioned and qualified, for the parish of Orleans, shall be entitled custodian of notarial records.

**[Custodian to Collect Records of Notaries Deceased, Etc.]**

**[R. S., Sec. 2545.]** It shall be the duty of said custodian of notarial records to collect together, and safely keep in his possession, the records of all notaries in the parish of Orleans who shall have ceased to be such, either by death, removal or otherwise, except such records as are already in the custody of other notaries; he shall keep in his office in a fire-proof building, in the city of New Orleans, which it shall be the duty of the common council of New Orleans to provide, within six months after the passage of this act; he shall classify said records according to their dates, and in such manner as will most facilitate access to them.

**[Governor Appoints Custodian.]**

**[R. S., Sec. 2546.]** (As amended by Act 156, 1918.) The Governor of the State, by and with the advice and consent of the Senate, shall select a notary custodian of said office, who shall enter upon the duties of his office immediately after the passage of this act, and whose term of office shall be for four years.

**[Deputies of Custodian.]**

**[R. S., Sec. 2547.]** The custodian of notarial records shall have power to appoint two deputies, who shall be sworn according to law, and such deputies, when appointed and sworn, shall have power to certify copies of acts and records of all kinds in said office.

**[Compensation and Salary of Custodian.]**

**[R. S., Sec. 2548.]** (As amended by Act 58, 1918.) The Custodian of Notarial Records for the Parish of Orleans shall be entitled to charge and receive the same fees of office as are allowed by law to other Notaries for the making of copies, and also a salary of eighteen hundred dollars (\$1,800.00) per annum, and a further sum of two hundred dollars (\$200.00) per annum for binding of said notarial records and for all other necessities and additional help that may be required for the maintenance of said office; these said sums to be paid by the City of New Orleans monthly, and the Commission Council of said City is hereby directed to budget and provide for the payment of same.

**[Must Demand Records.]**

**[R. S., Sec. 2549.]** In case of death, resignation or removal of any notary public in the parish of Orleans, the depository of notarial records of the parish of Orleans shall be authorized to demand and take possession of all acts passed before such notary public.

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**NURSES.****BOARD OF EXAMINERS.**

**Act 138 of 1912, p. 177.**

**TITLE.**

**AN ACT** to regulate the practice of nursing; to create a Nurses' Board of Examiners; to regulate the fees and emoluments thereof; to establish a class to be known as Registered Nurses, and to prohibit the use of words or letters or other means of identification by unauthorized persons as registered nurses, and to provide penalties for the violation of the provisions of this Act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That upon the taking effect of this Act, the Louisiana State Nurses' Association shall nominate for appointment as examiners ten registered physicians who shall have had not less than five years' experience in the

practice of medicine. The names of the ten physicians so nominated shall be submitted to the Governor of the State, who shall appoint from said number, within sixty days, a Nurses' Board of Examiners to be composed of five members. One of the members of this Board shall be designated by the Governor to hold office for one year; one for two years; one for three years; one for four years; one for five years; and thereafter upon the expiration of the term of office of a person so appointed, the Governor shall appoint his successor to hold office for a full term of five years, from a list of two names submitted to him annually by the State Nurses' Association. All vacancies occurring on the Board shall be filled by the Governor in the same manner from a list of names to be furnished him by the Louisiana State Nurses' Association.

**Sec. 2.** Be it further enacted, etc., That the members of the Nurses' Board of Examiners shall, as soon as organized, and annually thereafter, elect from their members a President and Secretary; the Secretary shall also be the Treasurer of the Board.

Special meetings of the Board shall be called by the Secretary, upon the written request of any two members to the President, who shall order said special meetings called. The said Board of Examiners is authorized to frame such by-laws as may be necessary to govern its proceedings, and adopt a seal which shall be in the custody of the Secretary of the Board. The Secretary shall be required to keep a record of all meetings of the Board, including a register of the names of all the nurses duly registered under this Act, in his office at the domicile of the Board, said domicile being in the City of New Orleans; and the Board shall prosecute all persons violating any of the provisions of this Act, and may incur the necessary expenses on this behalf. The Secretary shall receive a salary to be fixed by the Board, also traveling and other expenses incurred in the discharge of his official duties. Each member of the Board shall receive \$10.00 for each day actually engaged in this service, and all legitimate and necessary expenses incurred while so engaged. Said expenses and salary shall be paid from fees received by the Board under provisions of this Act, and no part of salaries or other expenses of the Board shall be paid out of the State Treasury. All money received in excess of the said allowances and other expenses provided for by this Act shall be held by the Treasurer to pay the expenses of printing the annual report of the Board.

**Sec. 3.** Be it further enacted, etc., That after September, 1912, it shall be the duty of the said Board of Examiners to meet twice in each year, at its domicile, notice of which meeting shall be published one time in each of the daily papers of New Orleans, Baton Rouge and Shreveport, and one time in one nursing journal, published in the United States, at least one month prior to the time of such meeting. At such meetings it shall be the duty of the Board to attend to such matters as may come before it under the provisions of this Act, and after July 1st, 1915, it shall, at such meetings, examine all applicants for registration to determine their fitness and ability to give efficient care of the sick. Each applicant shall deposit a fee of \$10.00 upon the filing of his or her application for examination and registration.

**Sec. 4.** Be it further enacted, etc., That each applicant shall furnish satisfactory evidence that he or she is 21 years of age, is of good moral character, has received the equivalent of a high school education and has graduated from a training school connected with a general hospital in good standing, of which standing the Board shall be the exclusive judge; provided that no hospital or sanitarium giving less than two years' training to nurses shall be considered in good standing.

**Sec. 5.** Be it further enacted, etc., That all nurses possessing the above qualifications, and who are in training at the time of the passage of the Act, and who shall graduate before July 1st, 1915, in the State of Louisiana, shall be permitted to register without examination, upon the payment of the registration fee of \$10.00; provided that all applications for registration be made before July 1st, 1915. Nurses who have graduated prior to the passage of this Act from recognized training schools in

Louisiana, and nurses who are now practicing in the State of Louisiana, who shall show to the satisfaction of the Board of Examiners that they are graduates of training schools connected with general hospitals or sanitariums giving two years training, shall be required to register before July 1st, 1913, such nurses upon payment of the registration fee of \$10.00 shall be entitled to registration without examination. It shall be unlawful after June 30th, 1915, for any person without a certificate of registration to practice as, or profess to be, a registered nurse in this State. Said Board, however, shall be authorized to waive at its discretion said examination, and to issue certificates of registration in favor of applicants who shall present to the Board certificates of examination from a Board of Examiners of another State; provided the standard of requirements of said Board of Examiners of said other State is satisfactory to the Board of Examiners created under this Act. Any nurse who has received his or her certificate according to any of the provisions of this Act shall be styled and known as a "Registered Nurse." No other person shall assume such title or use of the abbreviation "R. N." or any other letter or figure to indicate that he or she is a registered nurse.

**Sec. 6.** Be it further enacted, etc., That the certificates issued in accordance with Section 5 of this Act shall be recorded in the office of the Clerk of the District Court of the parish in which he or she resides, who shall make this recordation in a book to be kept for that purpose only, and also certify to such recordation by indorsement of the original certificate, which the holder thereof shall transmit or deliver to the State Board of Health; and the clerk recording same shall be entitled to a fee of \$1.00. Such certificates transmitted or delivered to the State Board of Health shall entitle the holder to be placed upon the list of registered nurses. Said Board of Health shall preserve such certificates, and the copy thereof, signed by its Secretary, shall be received as evidence in the courts of this State; and for such copy a fee of 50 cents shall be paid. Until such recordation is made, the holder of such certificate shall not exercise any of the rights or privileges therein conferred to registered nurses.

**Sec. 7.** Be it further enacted, etc., That this Act shall not be construed to affect or apply to the gratuitous nursing of the sick by friends or members of the family, and also it shall not apply to any person nursing the sick for hire, but who does not in any way assume to be a registered nurse.

**Sec. 8.** Be it further enacted, etc., That any person violating any of the provisions of this Act, and who shall wilfully make any false representations to the Nurses' Board of Examiners in applying for a certificate, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment in the parish jail for a period of not less than ten, nor more than ninety days, or by both fine and imprisonment for each offense. It shall be the duty of the respective district attorneys to prosecute violations of the provisions of this Act before any court of competent jurisdiction. The said fine shall be divided equally between the public school fund of the parish in which said offense may have been prosecuted and the Nurses' Board of Examiners. Said Nurses' Board of Examiners, through their proper officers, may cause to issue in any competent court, a writ of injunction forbidding and enjoining said person from further representing himself or herself as a registered nurse in this State, until such person shall have become duly registered as herein provided for under the provisions of this Act; and said injunction shall not be subject to be released upon bond.

In the same suit in which said injunction may be applied for, the said Nurses' Board of Examiners, through their representative President aforesaid, may sue for, and demand of, the defendant a penalty not to exceed \$100.00, and in addition thereto attorney's fees not to exceed \$50.00, besides the costs of courts; judgment for which penalty, attorney's fees and costs may be rendered in the same judgment in which the injunction may

be made absolute. That the trial of said proceedings shall be summary and be tried by the judge without intervention of a jury.

**Sec. 9.** Be it further enacted, etc., That if any person registered under this Act shall be convicted of a crime or be guilty of immoral conduct, the said Board shall have the power to institute proceedings before any competent court for the purpose of having the certificate granted by it to such person revoked; and if it shall be shown that the nurse so registered has been convicted of a crime or be guilty of immoral conduct, the said court shall revoke or suspend for such period as the court may deem proper the registration certificate of such nurse.

**Sec. 10.** Be it further enacted, etc., That "until July 1st, 1913, every nurse who shall be a resident of Louisiana at the time of the passage of this Act and who shall produce satisfactory evidence as to age, moral character and common education as provided in this Act, who has had one year's training in a recognized school as defined in this Act, and who shall further show, by the testimony of five reputable physicians that he or she has had at least three years of actual experience as a trained nurse, shall be permitted to register as a trained nurse upon passing a satisfactory examination before the Board created by this Act; and said Board shall make provision for the examination of such applicants."

**Sec. 11.** Be it further enacted, etc., That this Act shall take effect from the date of its passage.

**Sec. 12.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## OATHS.

### [Oaths of Officers.]

**[R. S., Sec. 2550.]** The oath required by Article one hundred of the Constitution, shall be taken by all officers of the State, before entering on the duties of their office; it may be administered by the Governor of the State, any Judge or Justice of the Peace, Clerk or Deputy Clerk, and shall be subscribed by the party taking it, and be certified in his commission by the person administering it.

The said oath or affirmation thus subscribed, shall be deposited, that is to say: those of the officers whose jurisdiction extends throughout the State, in the office of the Secretary of the State, to be by him recorded in a book, kept for that purpose, and those of all other officers in the Clerk's office of the parish where the same may have been administered, to be recorded by the said clerk, in a book kept for that purpose; and the said oath or affirmation shall be thus deposited within one month after the same shall have been administered.

Note. One does not become an officer until he complies with the Constitution and legal requirements that is, takes his oath of office (Const. Art. 160) and deposits the same with the Secretary of State or Clerk of Court as the law indicates. Whether he has done so as a matter of record hence cannot be proved by oral testimony, when objection is made. *State vs. Claxton et al.*, 129 L. 591.

### [Oaths of Officers to be Taken Before Judges.]

**[R. S., Sec. 2551.]** The Governor and Judges, and all other civil and military officers elected or appointed under the author-

ity of this State, shall, before they act in their respective offices, take and subscribe the oath or affirmation required by Article one hundred of the Constitution.

## OATHS IN JUDICIAL PROCEEDINGS.

### Act 173 of 1908, p. 233.

#### TITLE.

AN ACT to regulate judicial oaths, in cases where two or more parties are joined as Co-Plaintiffs, Co-Defendants, Co-Intervenors, Co-Opponents, Co-Warrantors, Co-Movers or Co-Parties of any sort.

#### OATH OF ONE OF THE PARTIES, WHERE JOINED. SUFFICIENT.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That, in all judicial proceedings, where two or more parties are joined in interest and are acting together as Co-Plaintiffs, Co-Defendants, Co-Intervenors, Co-Opponents or Co-Warrantors, Co-Movers, or Co-Parties of any sort, and where, as such, they are or may hereafter be required to make oath, in order to take out any writ, summons, process or order, or any judgment or decree, or in order to file any motion, pleading or instrument of any description, it shall be sufficient if one only of such Co-Plaintiffs, Co-Defendants, Co-Intervenors, Co-Opponents, Co-Movers, Co-Warrantors, or Co-Parties of any sort, shall subscribe and swear to the affidavits prescribed.

Sec. 2. Be it further enacted, etc., That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

**R. S., Secs. 2552 to 2558** relate to oaths of officers—form penalties, etc. Superseded by Act 19, 1878, p. 43, printed at p. 1485, title "Office."

[**R. S., Sec. 2559.**] Oath of attorney-at-law. R. S., Sec. 115, title "Attorney-at-Law."

[**R. S., Secs. 2560, 2561.**] Auditor of State may examine under oath in connection with settlement of acquests, etc. R. S., Sec. 118, title "Auditor."

[**R. S., Secs. 2562 to 2566.**] Oath of auctioneers when settling their accounts. R. S., Secs. 147 to 151, title "Auctioneers."

[**R. S., Secs. 2567, 2568.**] Oath of attorney or agent. R. S., Secs. 528, 529, title "Attorney-at-Law."

[**R. S., Sec. 2569.**] Oath in attachment cases. R. S., Sec. 104, title "Attachments."

[**R. S., Secs. 2570, 2571.**] Oath of attorney or agent may be to best of knowledge and belief. C. P., Arts. 243, 244.

[**R. S., Sec. 2572.**] Garnishment under execution. C. P., Art. 246.

[**R. S., Sec. 2573.**] Provisional seizure. C. P., Art. 287.

[**R. S., Sec. 2574.**] Members of General Assembly. R. S., Sec. 1531, title "General Assembly."

[R. S., Sec. 2575.] Chairmen of Committees of Senate and House of Representatives may administer oath. R. S., Sec. 1536, title "General Assembly."

[R. S., Sec. 2576.] Foremen of Grand Juries may administer oath. R. S., Sec. 2137, title "Jury."

[R. S., Secs. 2577, 2578.] Oath of Tax Collectors presenting claims to Parish Treasurers. R. S., Secs. 2645, 2646, title "Parish Treasurer."

[R. S., Sec. 2579.] Secretary of State may administer oath. R. S., Sec. 3520, title "Secretary of State."

## OFFENSES AND QUASI OFFENSES.

[R. S., Sec. 2580.] Liability of Municipal Corporations for damages to property by mobs. R. S., Sec. 2453, title "Municipal Corporations."

[R. S., Sec. 2581.] Where corporation may be sued for damages. C. P., Art. 165.

[R. S., Sec. 2582.] Amending R. C. C., Art. 2315 to give survivors right of action. R. C. C., Art. 2315.

[R. S., Sec. 2583.] Clients, etc., not responsible for slander by attorney. R. S., Sec. 123, title "Attorney-at-Law."

[R. S., Sec. 2584.] Co-trespassers liable *in solido*. R. C. C., Art. 2324.

## DEFENSES IN DAMAGE SUITS.

**Act 187 of 1912, p. 333.**

### TITLE.

AN ACT in reference to defenses in suits for damages for personal injury. Be it enacted by the General Assembly of the State of Louisiana, That assumption of risks by an employee, or the negligence of a fellow-servant shall not be a defense to an action for damages for personal injury, but may be considered by the court in determining the measure of damages. Provided, the provisions of this act shall apply only to public service corporations.

## OFFICE.

[Commission of Appointees Not to Issue Until Oath is Taken.]

[R. S., Sec. 2585.] Before any person, elected or appointed to any office, State, parish, or municipal, in this State, shall be commissioned by the Governor (with a view to testing the eligi-

bility of any such person to hold the office to which he has been elected or appointed), such person so elected or appointed, shall take and subscribe the oath or affirmation prescribed in the third section of this act.

**[Same Subject—Elective Offices.]**

**[R. S., Sec. 2586.]** Before any person who has been elected or appointed to any State, parish or municipal office in this State, which does not require the issuance of a commission by the Governor, shall be sworn into office, or to enter upon the discharge of the duties of any such office, with a view to ascertain the eligibility of such person to hold office, such person shall take and subscribe the oath or affirmation prescribed in the third section of this act.

**[R. S., Sec. 2587.]** Form of Oath. Superseded by Form prescribed by Constitution, Art. 161.

**OATH OF OFFICE—BOND, ETC.****Act 19 of 1878, p. 43.****TITLE.**

AN ACT to require all State, district and parochial officers in this State, whether elected or appointed, to take the oath of office and give bond, where bond is required, and cause the same to be filed in the proper office in the manner required by law, within thirty days after the receipt of their commissions, and to declare vacant any office where the officer elected or appointed to fill the same shall fail to comply with the requirements of this act, within the limitations therein fixed.

**OATH MUST BE TAKEN IN THIRTY DAYS.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That all State, district and parochial officers of this State, whether elected or appointed, shall be required, within thirty days after the receipt of their commissions, to take the oath of office prescribed by law, and give bond, where bond is required, and cause the same to be filed in the proper office in the manner and as required by law.

**FAILURE OPERATES VACATION OF OFFICE.**

Sec. 2. Be it further enacted, etc., That the failure of any officer to comply with the requirements of section one of this act, within the limitations therein fixed, shall operate a vacation of such office, and the Governor shall proceed to fill said office by appointment, as in other cases of vacancy.

**OATH AND BOND—FAILURE TO GIVE.**

Sec. 3. Be it further enacted, etc., That any officer of this State, whether State, district, or parochial, who has heretofore been elected or appointed to office, and who has failed to take the oath required by law, and to give bond, where bond is required, in accordance with existing laws, shall be required to take such oath and give bond, where bond is required, in accordance with existing laws, within thirty days from the date of the promulgation of this act, and a failure to comply with these requirements, within the limitations fixed, shall operate a vacation of office, and the Governor shall fill the same, by appointment, as in other cases of vacancy.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

Note.—See R. S. Sec. 2530 and note thereto.

**[Before Whom Oath May be Taken.]**

[R. S., Sec. 2588.] The affidavit prescribed to be taken in Section 2587 of this act, may be taken, sworn to, and subscribed before any person legally authorized to administer oaths in any parish in this State, and the same shall be filed in the Secretary of State's office for this State, within thirty days from the close of the election at which he may be elected, or from the date of his appointment, if appointed. And if said affidavit be not taken and filed in the Secretary of State's office within said thirty days, the person so elected or appointed shall be deemed ineligible to such office and the office deemed vacant; then such office shall be held to be vacant, and shall be filled as the Constitution or laws may provide for filling such vacancies.

**[Falsely and Corruptly Taking Oath of Office.]**

[R. S., Sec. 2589.] If any person shall falsely and corruptly take the oath or oaths, in either of the clauses in Section 2587 of this act, such person shall, on conviction thereof, be imprisoned at hard labor in the penitentiary of this State for a term of not less than five nor more than ten years.

**[Contest Right to Hold Office Notwithstanding Oath.]**

[R. S., Sec. 2590.] Taking the oath prescribed in section three of this act, and the issuance of the commission in consequence thereof, and the taking the constitutional oath of office, and entering upon the discharge of the duties of any office, shall not prevent any person from contesting any such party's right to such office on the ground of his ineligibility, or for any other legal or sufficient reason, by the contesting party pursuing the forms and requirements of law.

**[Failure to Qualify, Etc., Nullifies Official Acts, Etc.]**

[R. S., Sec. 2591.] If any person elected or appointed to any office, State, parish or municipal, in this State, and who is required to attest his eligibility to office according to the requirements of this act, shall presume to discharge or attempt to discharge the duties of any such office, after the expiration of the time required by this act within which to file his affidavit in the office of the Secretary of State, all his pretended official acts from that date shall be void; and if his office is, in whole or in part, a salaried office, and his right to hold office be contested, he shall file a bond in the court in which the suit of contest may be instituted, with good and sufficient sureties conditioned, that in case the decision of the court shall be against him, he shall pay to the person found to be entitled to said office all the fees, salary and emoluments of said office during the whole time he shall have

held the same, and he shall not be entitled to demand or receive any salary of office after that time, nor shall he be entitled to receive any fees of office for services rendered in such office after that time; and any fees so paid shall not discharge the party paying them from paying again to the proper officer.

**[Refusal to Vacate if Ineligible—Penalty.]**

**[R. S., Sec. 2592.]** If any person elected or appointed to any office, State, parish or municipal, in this State, shall fail to show his eligibility to such office, as is required by this act, and if his office has, according to the requirements of this act, become vacant, and another person has been elected or appointed to such office, and been authorized to enter on the discharge of the duties of such office, and should such person, whose office has become vacant as aforesaid, fail to deliver over to the person so authorized to discharge the duties of such office, upon demand, all the books, papers, archives, records, property or other effects of such office, or willfully resist or obstruct such person in the discharge of the duties of such office, upon due conviction thereof, shall be punished by imprisonment in the common jail not less than three nor more than twelve months, and fined not less than one hundred nor more than one thousand dollars.

**UNLAWFUL DETENTION, REMOVAL, ETC., OF PUBLIC RECORDS, ETC.****Act 26 of 1878, p. 47.****TITLE.**

AN ACT to punish the unlawful detention, or removal, mutilation, or destruction of public records, documents, books, or writings, and their non-delivery by any outgoing to any incoming officer, or other authorized person.

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That every officer of this State and of the parishes, cities and towns thereof, upon the expiration of his term, his resignation of, or removal from his office, shall deliver up, without delay, to his successor or to a person duly authorized to receive the same, all the books, records, documents and writings appertaining to his office.

**Sec. 2.** Be it further enacted, etc., That every officer of this State, and of parishes, cities and towns thereof, who withholds or detains from his successor or other person entitled by law thereto, any of the books, records, documents, or writings appertaining to his office, or shall mutilate, destroy or take away the same from the building or office where they have been usually kept, shall, on conviction thereof, be imprisoned in the penitentiary not less than one, nor more than ten years. The provisions of this section shall apply to any person, or persons, who shall have in his or her or their possession such books, records, documents, or writings, and shall refuse to deliver the same to the proper authority, or who shall wilfully mutilate, destroy, withhold, or detain the same, or aid in the mutilation, destruction or detention of the same.

**Sec. 3.** Be it further enacted, etc., That this act shall take effect from and after its passage.

**[When Suit to Oust May be Instituted.]**

**[R. S., Sec. 2593.]** An action by petition may be brought before the proper district court or parish court by the district attorney or district attorney *pro tempore*, and for the parish of Orleans by the Attorney General or any other person interested, in the name of the State, upon his own information or upon the information of any private party against the party or parties offending, in the following cases:

*First*—When any person shall usurp, intrude into or unlawfully hold or exercise any public office or franchise within this State; or

*Second*—When any public officer shall have done, or suffered to be done, an act which by the provisions of law shall work a forfeiture of his office; or

*Third*—When any association or number of persons shall act within this State as a corporation without being duly incorporated.

**PUBLIC OFFICE.**

**Note.**—The relator in a suit of this character cannot maintain his suit if he only contests the title of the defendant. The relator must show a muniment of title thereto in himself. *State ex rel Ford vs. Miltenberger*, 33 An. 263; *Osgood vs. Black*, 33 An. 493. The claimant is the necessary plaintiff and the officer *de facto*, in actual possession, the defendant. The claimant can, however, not take the law in his own hands, and with the assistance of others practically oust the incumbent in advance of a judicial determination. Injunction will lie to prevent this, until the dispute is judicially settled. *Guillotte vs. Poincy*, 41 An. 333; *Osgood vs. Black*, 33 An. 493. See also *State ex rel Saisan vs. Judge*, 48 An. 1501. Where no other person is interested, the suit may be brought by the Attorney General alone, and the Civil District Court of Orleans has jurisdiction in a suit between the State and a "Recorder" to test the title to the office. *State vs. Grandjean*, 51 An. 1099. (In this case a vacancy had been created by the death of the incumbent, and the City Council elected the defendant to fill the vacancy. The State sued to oust the defendant, claiming the right of appointment was in the Governor, who had not yet acted. The Court cited and distinguished *Guillotte vs. Poincy*, 41 An. 333.)

Mandamus will lie at the instance of taxpayers to compel the District Attorney to bring suit to oust from his office a parish superintendent of public education who the taxpayers allege has "usurped, intruded into and is unlawfully holding and exercising," etc. Such an action is not brought under Const. Art. 212,222, but under R. S. Sec. 2593. *State vs. Theus*, 114 La. 1100. (In *State ex rel Lannes vs. Attorney General*, 30 An. 954, the Court held that mandamus would not lie to compel the Attorney General to file suit to forfeit the charter of a private corporation, that in such a case the officer was vested with discretion, etc.)

Where the fees of the office in contest exceed one hundred but not two thousand dollars, the Supreme Court is without jurisdiction of an appeal, where an appointee seeks to mandamus the District Attorney to file suit to oust the incumbent. The Court transferred the case to the Court of Appeal. *State ex rel Rogers vs. Parsons*, 120 La. 263.

**PRIVATE CORPORATIONS.**

**Note.**—A suit to forfeit the charter of a corporation does not lie at the instance of private persons, even when they are parties in interest; nor can the Attorney General of the State be compelled to do so by mandamus, as the matter is within his discretion. *State ex rel Lannes vs. Attorney General*, 30 An. 954.

A suspensive appeal from a judgment decreeing the charter of a corporation null and void, may be taken on a bond sufficient in amount to cover costs. *State ex rel Columbia Debenture Co. vs. Judge*, 51 An. 466.

**[Duty of District Attorney and Attorney General.]**

**[R. S., Sec. 2594.]** In the cases mentioned in the foregoing section it is hereby made the duty of the district attorney or district attorney *pro tempore* of the parish in which the case arises, and for the parish of Orleans by the Attorney General, to bring action against the offending party or parties, when so required to do.

**[Service of Petition and Answer.]**

[R. S., Sec. 2595.] Service shall be made in such cases as are provided for in the foregoing sections, the same as in other civil suits, and the answer of the defendant shall be filed within the legal delays as in other suits; such cases to be tried by preference over all other cases, without being fixed for trial after issue joined.

**[Interested Persons May be Joined.]**

[R. S., Sec. 2596.] When an action shall be brought by virtue of the provisions of this act by the district attorney or district attorney *pro tempore*, or the Attorney General as the case may be, on the relation or information of any person interested, the name of such person shall be joined with the State as plaintiff.

**[Suit for Fees Unlawfully Collected.]**

[R. S., Sec. 2597.] Whenever such action shall be brought against a person for usurping or intruding into a public office, the district attorney or district attorney *pro tempore*, or the Attorney General as the case may be, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightfully entitled to the office, with a statement of his right thereto, and in such case on proof that the defendant has received fees or emoluments belonging to said office, an order may be granted by a judge of a competent court for the arrest of such defendant, and for holding him to bail, and thereupon he shall be held to bail, subject to the same rights and liabilities as in other civil actions when the defendant is subject to arrest.

*Note.—See note to R. S. Sec. 2693.*

**[Possession to be Demanded by Rightful Person.]**

[R. S., Sec. 2598.] If the judgment be against the defendant, and rendered upon the right of the person so alleged to be entitled, and the same be in favor of such person, he shall be entitled after taking the oath of office, and otherwise complying with the requirements of law, to take upon himself the execution of the office, and it shall be his duty immediately thereafter to demand of the defendant in the action all the books and papers pertaining to said office.

**[Penalty for Refusing to Deliver Office, Etc.]**

[R. S., Sec. 2599.] If the defendant shall refuse to deliver over such books or papers upon demand he shall be deemed guilty of a misdemeanor, and prosecution thereof by indictment or information, and upon conviction fined not less than two hundred dollars or imprisoned at the discretion of the court, not exceeding one year.

**[Recovery of Damages.]**

[R. S., Sec. 2600.] If the judgment be rendered in favor of the person so alleged to be entitled, he may recover by action

the damages which he shall have sustained by reason of the usurpation by the defendant of the office from which such defendant has been excluded.

*Note.—The de jure officer can recover from the de facto officer so much of the salary as has been paid the latter, and he may recover from the city so much of the emoluments of the office as have not been paid the de facto officer, but recovery of damages for expenses incurred in bringing suit cannot be allowed. Michel vs. City of New Orleans, 31 An. 1094.*

**[All Claimants May be Joined in One Action.]**

**[R. S., Sec. 2601.]** Where several persons claim to be entitled to the same office or franchise one action may be brought against all such persons in the same action in order to try their rights to such office or franchise.

**[Usurping Defendant Liable in Damages.]**

**[R. S., Sec. 2602.]** When defendant, whether a person or a corporation, against whom such action shall have been brought, shall be adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that such defendant be excluded from such office, franchise or privilege, and also that the plaintiff recover costs against such defendant, and such damages as are proven to have been sustained.

**[Repealing Laws Touching Quo Warranto.]**

**[R. S., Sec. 2603.]** All laws or parts of laws in this State touching on the subject of *quo warranto*, conflicting directly or indirectly with any of the provisions of this act, be and the same are hereby repealed.

**[Appeal to Supreme Court—Preference.]**

**[R. S., Sec. 2604.]** Appeals to the Supreme Court may be taken from any of the actions provided for in the foregoing sections, the same as in other cases. But all such cases shall take preference when they come before the Supreme Court over all other cases in the order of trial, and shall be made returnable to the Supreme Court, either in New Orleans or at one of its sessions in the country, on motion of either of the parties.

*Note.—Appeals from judgments in cases under the intrusion in office statutes must be made returnable within ten days to the Supreme Court at New Orleans, or one of its country sessions, immediately following the judgment. A decree overruling a motion to dismiss may be rescinded, and when rescinded the original motion revives. State ex rel Leche vs. Fowler, 42 An. 144. See also State ex rel Mills vs. Village of Pearl River, 118 La. 1071.*

**[Trial in Chambers—Right to Jury.]**

**[R. S., Sec. 2605.]** All the cases coming under the provisions of this law may be tried before a judge of the district in chambers, or at a special term called by said judge on legal notice being given the parties interested; and if required by either party, the judge may order a special jury, to be summoned according to law, to try such case.

**USURPATION OF PUBLIC OFFICE.****Act 41 of 1873, p. 80.****TITLE.**

AN ACT declaring it a crime to usurp a public office and providing the punishment for such offense; providing that if any public officer shall adhere to or recognize any usurper, his office shall be forfeited and considered abandoned, and directing and regulating legal proceedings to have such abandonment and forfeiture declared; authorizing the Governor to declare such forfeiture and abandonment in certain cases, and to remove such officers and to fill the vacancies so made, by appointment.

**WHAT CONSTITUTES USURPATION DECLARED A CRIME.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That if any person shall assume or pretend to be an officer of the State, executive, judicial, or legislative, without authority of an election declared by the returning board constituted by law, or without authority of a commission from the Governor of the State, in case the law require such officer to be commissioned, such person so illegally assuming or pretending to be a public officer shall be deemed a usurper. If any such usurper shall attempt to exercise the functions of a public officer, and shall interfere with any public officer in the discharge of his duties, such usurper so interfering shall be deemed to be guilty of a crime, and upon conviction may be fined or imprisoned at the discretion of the Court, or both.

**RECOGNITION OF USURPER BY A PUBLIC OFFICER.**

Sec. 2. Be it further enacted, etc., That if any public officer, whether State, parish or municipal, shall give adhesion to, or in any manner recognize the authority of any such person who may be usurping a public office within contemplation of this law, such public officer so giving adhesion to or recognizing such usurper shall be deemed to have forfeited and abandoned the public office held by him under the constitution, the laws and the government of the State.

**PROCEEDINGS AGAINST USURPER.**

Sec. 3. Be it further enacted, etc., That whenever the Governor of the State shall be informed that any public officer has forfeited and abandoned his office by giving adhesion to or recognizing any usurper within the contemplation of this law, he, the Governor, may in case such office is established by the constitution, direct that the Attorney General or the District Attorney shall take legal proceedings before the court of competent jurisdiction to have such forfeiture and abandonment declared. The proceedings in such case shall be summary and shall be had by rule, of which the officer so charged with having abandoned his office shall have notice of one full day. The court shall at once hear and determine such rule. If an appeal shall be taken by the State or by the party defendant to such proceedings, it shall be made returnable within ten days, and shall be heard by preference by the Supreme Court, as in case of contest for judicial office.

**FILLING VACANCIES CREATED BY ABANDONMENT OF OFFICE.**

Sec. 4. Be it further enacted, etc., That whenever the court of competent jurisdiction shall declare that any public officer, whose office is established by the constitution, has abandoned and forfeited his office, within contemplation of this act, and for the cause herein given, the Governor shall fill such office by appointment under the laws providing for filling vacancies in public offices.

**DECLARATION OF VACANCIES BY GOVERNOR, ETC.**

Sec. 5. Be it further enacted, etc., That whenever the Governor shall ascertain that any public officer, whose office is established by an act of

the Legislature, has given adhesion to or recognized the authority of any usurper within the contemplation of this act, he, the said Governor, may declare that such officer has forfeited and abandoned his office under the constitution, laws and government of the State, and he, the Governor, may fill the vacancy in said office by appointment under the provisions of the constitution and laws regulating appointments to fill vacancies.

**REPEALING CLAUSE.**

Sec. 6. Be it further enacted, etc., That all laws or parts of laws conflicting with this act shall be and are hereby repealed so far as they conflict, and this act shall take effect from and after its passage.

Note. A controversy for the office of sheriff should be brought under the "Intrusion in Office Act." It is not authorized by this act. *Breaux vs. Lejeune*, 25 An. 365. Acts performed by persons pretending to be officers cannot have any legal effect, and the sureties on a bail bond are not liable where the principal was arrested, bond furnished, etc., all through persons who were not officers. *State vs. McFarland*, 25 An. 547.

**PROCEEDING IN CONTEST FOR OFFICE.**

**Act 39 of 1873, p. 78.**

**TITLE.**

AN ACT to amend and re-enact an act entitled, "An act to regulate proceedings in contestations between persons claiming judicial office," approved January 15, 1873.

**COMMISSION A PRIMA FACIE PROOF OF RIGHT.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That Act No. 11, entitled, "An act to regulate proceedings in contestations between persons claiming judicial office," approved January 15, 1873, be and the same is hereby amended and re-enacted so as to read as follows: That in any case in which a person claiming to have been appointed to the office of judge of any court in this State, and shall have been confirmed by the Senate and commissioned thereto, or shall have been elected, and in pursuance of said election shall have been commissioned, such commission shall be prima facie proof of the right of such person to immediately hold and exercise such office.

**PROCEEDING BY RULE TO TEST RIGHT TO JUDICIAL OFFICE.**

Sec. 2. Be it further enacted, etc., That if any person, being an incumbent of such office, or any person pretending to hold or exercise a judicial office, shall refuse to vacate said office, or desist from exercising such judicial functions, and turn the same over to the person so commissioned, such person so commissioned shall have the right to proceed by rule before any court of competent jurisdiction to have himself declared to be entitled to such office, and to be inducted therein. Such rule shall be taken contradictorily with such incumbent or person pretending to hold or exercise judicial functions, and shall be made returnable within twenty-four hours if the defendant in said rule resides within ten miles of the court, with an additional twenty-four hours for every additional ten miles his said residence may be from the court issuing said rule. And the case shall be tried immediately and without jury, and by preference to all other matters or causes pending in said court, and the judgment thereon shall be signed the same day of its rendition; provided, that when any party may desire to take such rule or make application for removal of his case, as provided in section — of this act, if the court may not be in session, the same may be granted at chambers, and it shall be the duty of the said court to try the same at chambers, or to open and hold a special term for the trial of any such rule.

**COURTS IN WHICH RULE MAY BE TAKEN.**

Sec. 3. Be it further enacted, etc., That in case of recusation, or inability from any cause whatever, the judge or judges of the parish, or district wherein the persons so contesting shall reside, shall be unable to act, then and in that case the plaintiff in said rule may take said rule before the judge of the adjoining parish or judicial district, or to the Superior Court at New Orleans, as he may deem advisable; and in cases now pending, in which contestations between persons claiming judicial office is the subject matter at issue, either party shall have the right to have his cause removed to the adjoining parish or judicial district, or to the Superior Court at New Orleans, upon application to the judge of any adjoining parish or judicial district, or Superior Court at New Orleans, and affidavit of the recusation or inability of the judge to act from any legal cause, and upon the party filing said application and affidavit the court shall, by order, direct the removal of such cause, and the record shall thereupon be transferred to the said court; and in case of inability on the part of the party applying to obtain said record, or a duly certified copy thereof, sworn copies of the record may be filed with the court, and the case shall thereupon be tried in the same manner as if the original record was with the court; provided, that before any case so removed at the instance of any party shall be proceeded with, the court making the removal shall require that the adverse party shall have twenty-four hours' notice, with an additional twenty-four for every ten miles his place of residence may be from the court.

**APPEAL.**

Sec. 4. Be it further enacted, etc., That either party to such rule may take an appeal from the judgment thereon, but such appeal shall be applied for within three judicial days from the rendition of the judgment on such rule, and shall be made returnable to the Supreme Court within five days, with an additional day for every ten miles the place of holding the court may be from the place where the Supreme Court is holding its session. The appeal shall be taken up by the Supreme Court, by preference over all other cases, immediately upon the application of either party, and the judgment thereon shall become final, after expiration of two legal days, whether judicial or not.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws conflicting with this act, and all laws on the same subject matter, be and they are hereby repealed, and that this act shall take effect from and after its passage.

Note.—The commission is prima facie evidence of right to office, but the Court will take judicial cognizance of irregularity which rendered null the commissions that were issued. *Kemp vs. Ellis*, 25 An. 253. The act is constitutional. A commission issued through error does not confer any rights on the holder. *McGregor vs. Allen*, 33 An. 870. Nor does it deprive an incumbent of his office. *State ex rel Lemonnier vs. Board*, 34 An. 280; *State ex rel Duffy vs. Goff et al.*, 135 La. 335.

**WITHDRAWAL OF SUITS BY CONTESTANTS FOR OFFICE.**

Act 40 of 1873, p. 80.

**TITLE.**

AN ACT providing for contestants for office withdrawing their suits of contest from the courts of the state and for other purposes.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That whenever any suit is pending in any of the courts of this State, wherein the title to any office is involved, or wherein there is any contest as to the possession

of any office and the same is untried, it shall be lawful for the plaintiff, no matter what may be the nature of the pleadings, to discontinue such suit on the payment of cost thereof.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act shall take effect from and after its passage.

Note.—*Tullio vs. Lane*, 45 An. 333.

### [Vacancies in State, Parish and Municipal Offices.]

[R. S., Sec. 2606.] Whenever a vacancy occurs in any office, State, parish, or municipal, in this State, now existing, or which may hereafter be created, from death resignation, or from any other cause whatever, the mode of filling which is not provided for in the Constitution, all such vacancies shall be filled, if they be State or parish offices, by appointment by the Governor, with the advice and consent of the Senate, which appointment shall be for the entire unexpired term of such vacant office. If the Senate be not in session at the time the appointment is made, the vacancy shall be filled by appointment by the Governor, which appointment shall expire on the third Monday after the next meeting of the next session of the General Assembly thereafter, unless the time for which the vacancy exists expires sooner; and if the time of such vacancy has not expired, it shall then be the duty of the Governor to fill such unexpired vacancy by appointment, by and with the advice and consent of the Senate; and if it be a municipal office, the vacancy must be filled by appointment by the Governor for the unexpired term of the person whose office is so vacated.

### AUTHORITY OF GOVERNOR TO FILL VACANCIES IN CERTAIN OFFICES.

**Act 236 of 1916, p. 505.**

#### TITLE.

AN ACT to authorize and empower the Governor to fill all vacancies that may occur in the office of coroners, Justice of the Peace, Constable, Member of the Police Jury or Member of the School Board, Members of Board of Aldermen of municipalities having a population of less than five thousand, whether the same may be caused by death, resignation or otherwise, and to repeal all conflicting laws.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in case there shall occur a vacancy in the office of Coroner, Justice of the Peace, Constable, Police Juror or Member of the Parish School Board, Members of Boards of Aldermen of municipalities having a population of less than five thousand, whether the same may be created by death, resignation or otherwise the Governor of the State of Louisiana is hereby authorized and empowered to fill such vacancy for the remainder of the unexpired term by appointment, provided that such appointee shall possess all the qualifications under existing laws required to hold said office.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**LIMITING TERMS OF OFFICE.****Act 30 of 1910, p. 50.****TITLE.**

AN ACT to limit the term of office of officials and employees of the State, district, parochial and municipal boards, and to repeal all laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the term of office of all employees or officials elected by and State, district, parochial or municipal board shall not be for a longer period of time than the office of the membership of the board so electing them so that each respective board shall elect its own officers and employees, "provided this act does not apply to the officers or employees of any board governed by the Civil Service law of this State or nay parish or municipality thereof"; "provided that the Parish Superintendent of Education shall be elected on the first meeting in July following the election of the School Board."

**Sec. 2.** Be it further enacted, etc., That all laws in conflict herewith be, and the same are, hereby repealed.

**OFFICES WHICH SHERIFF, CLERK AND FEDERAL  
OFFICER SHALL NOT HOLD.****Act 106 of 1884, p. 135.****TITLE.**

AN ACT to amend and re-enact Act No. 7 of the Extra Session of 1877, to prohibit any sheriff, clerk or Federal officer from holding any office for profit under Police Juries or School Boards.

Be it enacted by the General Assembly of the State of Louisiana, That Act No. 7 of the Extra Session of 1877, be amended and re-enacted so as to read as follows:

**Section 1.** That it shall be unlawful for any assessor, sheriff, clerk, or any person holding any office or trust under authority of the United States Government, or any of the departments thereof, to hold any office or position of profit under the Police Juries, or Board of School Directors in this State; that Police Juries and School Boards are hereby prohibited from allowing any compensation to such officers in such cases; and any member of a Police Jury or School Board who shall violate the provisions of this act shall ipso facto be deprived of his office.

**DUAL OFFICE HOLDING.****Act 13 of 1912, p. 19.****TITLE.**

AN ACT to enforce Article 170 of the Constitution of 1898 declaring that "no person shall hold or exercise, at the same time, more than one office of trust or profit, except that of justice of the peace or notary public," and providing penalties for the violation of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That with the exception of the office of justice of the peace and notary public, every person who is a member of the General Assembly, or of the executive branch of the State government, or of the judicial department of the State government, or of any parish or municipal government, or of any State, parish, municipal or levee board, or of the board of any State hospital, or State asylum, or State educational institution, or who holds the position of attorney of any such government or board, or

who holds any office of trust or profit under the United States, or any other State, or under any foreign power, shall be and is hereby declared to be an office-holder within the purview of this act.

**Sec. 2.** Be it further enacted, etc., That no person shall hold or exercise, at the same time, more than one office of trust or profit, except that of justice of the peace or notary public.

**Sec. 3.** Be it further enacted, etc., That any person who holds an office as defined in Section 1 of this Act, and who, while holding such office, shall accept any other office as defined in Section 1 of this Act, shall, by the very fact of such acceptance of said second office lose all right, power and authority to exercise the duties or receive the emoluments of the first office, and shall be conclusively deemed to have vacated said first office.

**Sec. 4.** Be it further enacted, etc., That any person holding one office as defined in Section 1 of this Act, who shall accept a second office as defined in Section 1 of this Act and shall after his acceptance of the second office exercise any of the duties of or receive any of the emoluments of the first office, shall be guilty of a misdemeanor and shall on conviction be punished by a fine not exceeding five hundred dollars and imprisonment not less than thirty days nor more than six months.

**Sec. 5.** Be it further enacted, etc., That all laws and parts of laws contrary to or in conflict with the provisions of this act be and the same are hereby repealed.

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## OFFICERS.

### [Removal of Officer Vacates Office.]

[R. S., Sec. 2607.] Whenever any District or Parish Officer shall permanently remove from the district or parish for which he may have been elected or appointed, the office shall in consequence thereof, be deemed vacant, and upon satisfactory information being given of such removal, the Governor shall cause the vacancy to be filled in the manner provided by law.

### [Officers Hold Until Successors Qualified.]

[R. S., Sec. 2608.] All officers, whether appointed or elected, shall hold their offices and discharge the duties thereof until their successors are elected or appointed, as the case may be, and duly qualified.

Note.—A police jury is not a legislative body, whose members become functus officio at the expiration of their terms of office, and who do not hold over until their successors are chosen and inducted into office. Police jurors are the officers of a political corporation, and they continue in office after the expiration of their terms, until their successors are inducted into office. *State ex rel Gorham*, 25 A.R. 138. A parish treasurer holds over until his successor has qualified. The holding over does not have the effect of extending the term succeeding. *State ex rel Wilkinson*, 124 La. 655.

### [Account of Contingent Fund to Legislature.]

[R. S., Sec. 2609.] Every Officer, for the benefit of whose office there is a contingent fund appropriated, shall render a detailed statement to the General Assembly, at each session thereof, showing what disposition has been made of such contingent fund.

**[Copy of Oath to Auditor—When Salary Commences.]**

[R. S., Sec. 2610.] Whenever any officer of this State, whose compensation depends upon, or is to be computed by time of service, shall qualify himself to enter upon the discharge of his duties by taking and subscribing the necessary constitutional oath, he shall, without delay, transmit to the Auditor of Public Accounts, a true copy of said oath, who shall thereupon record the date thereof in a book to be kept for that purpose, and his salary shall commence from the date of the oath.

[R. S., Sec. 2611.] Reports of officers which shall accompany message of Governor to General Assembly. R. S., Sec. 1557, title "Governor."

[R. S., Sec. 2612.] Officers who shall furnish those reports to Governor. R. S., Sec. 1558, title "Governor."

**[Message and Reports—How Printed.]**

[R. S., Sec. 2613.] All executive messages communicated, and the reports of the various State Departments and of all standing and special committees of either branch of the General Assembly, and the documents accompanying the same, shall be printed in English and French, and bound in a separate volume, in the manner and form prescribed for the printing and publishing the journals, and shall be designated "Documents of the — Legislature, 18—" and there shall be two thousand volumes of the same delivered with the journals.

**[State Officers Report to General Assembly.]**

[R. S., Sec. 2614.] The various State Officers are hereby required to submit to the General Assembly a detailed statement of their expenses, giving each item with the proper vouchers, within the first week of its annual session.

[R. S., Secs. 2615, 2616.] These sections are identical with R. S., Secs. 1560, 1561, which were repealed by Act 48, 1875, p. 5 (Acts 1876).

[R. S., Sec. 2617.] Nominations by Governor, when made, etc. R. S., Sec. 1562, title "Governor."

[R. S., Sec. 2618.] Salary of private secretary. This section is identical with R. S., Sec. 1563, which was superseded by Act 26, 1877, printed under title "Governor."

**[Flags of United States on Public Buildings, Etc.]**

[R. S., Sec. 2619.] The flag of the United States, from sunrise to sunset, shall wave over the public departments and institutions of the State on all public occasions; over the State house during the sessions of the General Assembly, and over the court houses in the several parishes during the sessions of the courts.

**[Execution of Foregoing Sections.]**

**[R. S., Sec. 2620.]** The several public officers respectively, shall enforce and execute, or cause to be enforced and executed, the provisions of these resolutions.

**[R. S., Sec. 2621.]** Penalty for charging fees greater than allowed by law. R. S., Sec. 783, title "Crimes and Offenses."

**[R. S., Sec. 2622.]** Officers of Metropolitan Police. This section is identical with R. S., Sec. 2243, which was repealed by Act 35, E. S. 1877, p. 57.

**GOVERNOR MAY GRANT OFFICERS LEAVE OF ABSENCE**

**Act 79 of 1871, p. 191.**

**TITLE.**

AN ACT entitled an act to authorize the Governor of the State of Louisiana to grant leave of absence to State and parish officers.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That the Governor of the State of Louisiana be and he is hereby authorized to grant leave of absence to State and parish officers not to exceed ninety days at any one time, at his discretion.

Sec. 2. Be it further enacted, etc., That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Sec. 3. Be it further enacted, etc., That this act shall take effect from and after the date of its passage.

**REMOVAL OF OFFICERS FOR INCOMPETENCY.**

**Act 125, E. S. 1877, p. 194.**

**TITLE.**

AN ACT to amend an act entitled "An act to authorize and empower the Governor to remove for cause or incompetency any officer or appointee whose appointment is vested in him under existing laws, approved April 4, 1877.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That section one of the above act be amended and re-enacted so as to read as follows: "That the Governor be and he is hereby authorized and empowered to remove for cause or incompetency any officer or appointee whose appointment is vested in him."

Note.—Act 125, E. S. 1877, has not been repealed. In cases in which the Governor has the right to remove an officer, official notice of the removal need not be given. The removal itself operates as a divestiture of the office. *State ex rel Kuhlman vs. Rost*, 47 An. 53.

**SUSPENSION OF OFFICERS WHEN IN ARREARS WITH COLLECTIONS, ETC.**

**Act 9 of 1904, p. 11.**

**TITLE.**

AN ACT to carry into effect Article 223 of the Constitution relative to the suspension of officers charged with the collection or custody of public funds, when in arrears, and to authorize the Governor to provisionally appoint an officer to perform the functions of such suspended officer during his suspension.

**AUTHORIZING GOVERNOR TO SUSPEND DELINQUENT OFFICIALS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever the Auditor of Public Accounts or the Police Jury of any parish, shall notify the Governor, that any officer, charged with the collection or custody of public funds, is in arrears, he shall make immediate demand upon such officer for settlement within a delay not exceeding ten days, and in default of his making full settlement within said delay, the Governor shall at once suspend him from office.

**GOVERNOR TO APPOINT SOME QUALIFIED PERSON TO ACT DURING SUSPENSION.**

Sec. 2. Be it further enacted, etc., That whenever the Governor shall suspend any officer from office under the provisions of Section one of this act, he shall immediately appoint some person having the legal qualifications for such office to perform the functions thereof during such suspension. The person so appointed shall take the oath and give the bond required by law of the suspended officer, and shall exercise and perform all the powers and duties of such office.

**GOVERNOR'S RIGHT TO SUSPEND TAX COLLECTOR RESERVED.**

Sec. 3. Be it further enacted, etc., That this act shall not be construed as modifying, limiting, or restraining the power of the Governor, under existing laws to remove for cause any Tax Collector appointed by him, or as in any way affecting the penalties provided for failure to make settlement within the time prescribed by law.

**TRIAL OF SUITS FOR REMOVAL OF OFFICERS.****Act 135 of 1880, p. 184.****TITLE.**

AN ACT relative to suits and the trial thereof before the district courts of the State, for the removal from office of district attorneys, clerks of courts, sheriffs, coroners, recorders, justices of the peace, and of all other parish, municipal or ward officers, under the provisions of articles one hundred and ninety-six and two hundred and one of the State Constitution; to provide for motions for new trials, and for appeals from interlocutory decrees that might cause irreparable injury, and from all final judgments in such suits.

**DISTRICT ATTORNEY ON RELATION OF STATE—DISTRICT COURTS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all suits for the removal from office of any district attorney, clerk of court, sheriff, coroner, recorder, justice of the peace, or of any other parish municipal or ward officer, for any of causes specified in article one hundred and ninety-six of the State Constitution, shall be instituted before the District Court having jurisdiction over the place of defendant's domicile, by the district attorney, or by the counsel appointed by the court in the case provided by the Constitution, in his name, on the relation of the State, and he shall allege, with the other essential allegations, that the suit is instituted on the written request and information of ten, twenty-five or more resident citizens and taxpayers, whose names shall be set forth likewise in the petition. Such suits in the Parish of Orleans shall be instituted before the Civil District Court.

**CITIZENS AND TAXPAYERS MAY EMPLOY COUNSEL TO ASSIST DISTRICT ATTORNEY.**

Sec. 2. Be it further enacted, etc., That the citizens and taxpayers at whose request the suit is brought shall have the right to employ, at their own exclusive cost, counsel to aid the attorney of the State in instituting and in conducting the same, until it shall have been finally disposed of, and such suits shall be tried by preference over all others.

**WHEN COURT MAY ORDER DEFENDANT TO APPEAR IN PERSON AND INTERROGATE HIM.**

Sec. 3. Be it further enacted, etc., That in all cases instituted to remove an officer on the ground of his incompetency, arising out of his want of knowledge necessary to enable him to perform the duties of his office, or of any mental incapacity unfitting him for the office, the court may, on its own motion, or on that of any party to the suit, cause the defendant to come before it, in person and in open session, to answer any pertinent question, which may be addressed to him; as each question is put to him the clerk shall write it down and number it, and as each is put the defendant shall, with his own hand, write on a separate paper his answer, and number it to correspond with the number of the question, and this without being permitted to leave the presence of the court or to have recourse to the assistance of any person, book, paper or memorandum whatsoever; if defendant be unable to write, the cause of his inability shall be stated by him, under oath, and the clerk shall take down his answers in writing; provided, that questions propounded to said officer shall not be foreign to the duties of his office. In case of appeal the original papers containing such questions and answers shall be sent with and form a part of the transcript, the clerk retaining a certified copy of the same. In all other cases of removal defendant may be summoned and examined under oath, as any other witness.

**ALL PARTIES MAY ASK FOR TRIAL BY JURY.**

Sec. 4. Be it further enacted, etc., That either party to suits brought pursuant hereto may claim trial by jury; provided, that the plaintiff may pray for jury trial in his original petition, and not thereafter, and that defendant may pray for jury trial in his original answer, and not thereafter. In case either party prays for a jury during a term for which no jury has been drawn, or the jury drawn and summoned for which, has been set aside, and there be time to do so and try the case before adjournment of the term, the court shall, at once, order the jury commissioners to draw a new or special jury, as the case may be, to try the case, if either party require it. If the term of court next preceding that during which the jury is prayed for, or succeeding the time when such prayer is filed, if filed in vacation, be not a jury term, the case remaining untried, the judge shall order the jury commissioners to draw a special jury to appear at such term of court to try the case, and these rules shall apply to all succeeding terms until the case shall be finally tried. In all cases when a special jury is ordered, the judge shall order the drawing of thirty qualified jurors who shall be summoned by service of notice in the usual form. On the trial the jury shall be impanelled and the right to challenge shall be exercised as in jury trials in ordinary civil cases, and talesmen may be summoned as in other cases.

**MOTION FOR NEW TRIALS.**

Sec. 5. Be it further enacted, etc., That either party to such suits may make motions for new trials within the same delays, on the same grounds and in the same manner and form as is provided in other cases before the district court.

**APPEALS FROM INTERLOCUTORY DECREES.**

Sec. 6. Be it further enacted, etc., That from all interlocutory decrees that might work irreparable injury, and from all final judgments in such cases, any party thereto or any of the citizens whose names are set forth in the petition may appeal, on giving bond in such sum as the court may fix in the order granting the same. Such appeal bond shall be given in the manner and form as in other appeals in civil cases, and the appeal shall suspend the execution of the judgment appealed from. All such appeals must be taken and the bond furnished within ten days from the signing of the judgment, and shall be made returnable within ten days from the granting of the order of appeal to the appellate court, wherever it may be sitting, or wherever it may hold its next session.

**REMAND—PROCEDURE.**

Sec. 7. Be it further enacted, etc., That if on appeal, the case be remanded for further or another trial, it shall be had and proceeded with in the same manner as is provided for in the foregoing section for its first trial.

**PENDENCY DOES NOT OPERATE SUSPENSION.**

Sec. 8. Be it further enacted, etc., That the pendency of a suit to remove an officer shall not operate a suspension from office.

**WHEN JUDGMENTS BECOME EXECUTORY.**

Sec. 9. Be it further enacted, etc., That judgments in all such suits shall become of force and be executory as in other cases before the district courts of the State.

**PAYMENT OF COSTS.**

Sec. 10. Be it further enacted, etc., That if judgment in such suits be rendered against the defendant he shall be condemned to pay all costs, and if judgment be rendered in his favor the citizens at whose request the suit was brought shall be condemned jointly and in solido to pay all costs.

Note.—A suit by a District Attorney on the relation of the State for the removal of a sheriff under Const. Arts. 196, 200 and 201, is triable by a jury to be drawn in conformity with Act 135 of 1880. State ex rel Leche vs. Waggoner, 42 An. 54. Acts denounced by Const. Art. 196 and done by a sheriff in a prior term, who was his own successor, may form the foundation for a suit for removal from office under Const. Art. 201. State ex rel Billon vs. Bourgeois, 45 An. 1350. The citizens at whose instance a suit is brought under this act need not be made parties to the action, and if not made parties they are nevertheless condemned to pay costs; the judgment against them is an absolute nullity, and cannot affect the right of the State to an appeal without making them parties. State ex rel Stewart vs. Reid, 118 La. 106. As to time for appeal from judgment in cases brought under the act, see State ex rel Bourg vs. Marrero, 132 La. 109. The act is still in force. The allegation in the petition that the suit was brought at the request of twenty-five citizens, which request "is hereto attached and made part hereof," is a sufficient compliance with the act, to authorize taxation of costs against such citizens on the acquittal of the officer. State ex rel De Bellevue vs. Egan, 138 La. 201. (But see State ex rel Stewart vs. Reid, 118 La. 106.)

**RECALL OF OFFICERS.****Act 286 of 1914, p. 575.****TITLE.**

AN ACT of the General Assembly of the State of Louisiana, carrying into effect Article 223 of the Constitution of the State of Louisiana, providing for the recall of certain officers elected by the people, prescribing the form of petition, the manner of verification and ascertainment that the requisite number of legally qualified voters has signed same, and also the manner and method of calling such election, making returns thereof, and promulgating the results thereof; prescribing the form of ballot to be used, and providing how candidates to succeed the officer sought to be recalled may have their names placed upon the recall ballot; and providing for the punishment of any violation of this Act.

**OFFICERS WHO MAY BE RECALLED BY MAJORITY, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana that any officer of this State, (except the Judges of various Courts of record, and the Judges of the various City Courts throughout the State, and the Justices of the Peace) and any officer of any District, Judicial or otherwise, and any officer of any Parish or Ward thereof, and any officer of any Municipality or Ward thereof, may be recalled by a majority of the voters of the State, District, Judicial or otherwise, Parish or Ward of a Parish, Municipality or Ward of a Municipality at an election called, conducted and held as hereinafter prescribed.

**PETITIONS FOR RECALL TO GOVERNOR, ETC.**

Sec. 2. Be it further enacted, etc., That all petitions asking for an election to recall any officer of the State of Louisiana, or of any District, Judicial, or otherwise, or of any Parish or Ward thereof, or any municipality or Wards thereof, (except the Judges of various courts of Record and the Judges of the various City Courts throughout the State and Justices of the Peace) elected by the people shall be addressed to the Governor of the State of Louisiana, except when the object of the petition is to ask for the recall of the Governor, then such petition shall be addressed to the Lieutenant Governor; such petition shall be printed on a single sheet of paper conveniently arranged, and all blanks shall be filled in plainly and legibly. A margin of two inches shall be left at the top of each sheet, and same shall be substantially in this form:

"To the Honorable (Governor of the State of Louisiana, or Lieutenant Governor of the State of Louisiana, as the case may be):

"We, the undersigned Citizens and legal voters of the State of Louisiana, Parish of, (naming the Parish in which the voters signing the petition resides or votes) and Ward (naming the Ward of the Parish in which the voters signing the petition resides or votes) and Precinct (naming the Precinct) hereby petition your Excellency to call a Special Election for the (here name the territory in which the recall election is sought), either State, District, Judicial or otherwise, Parish or Ward thereof, Municipality or Ward thereof, or to submit at any General Election held throughout the particular territory herein above named within five months from the time this petition is certified to you, for the purpose of permitting the qualified voters of (naming the territory in which the recall election is sought) to vote upon the question of recalling (here the name the officer sought to be recalled, and give his official title) for his office and for the further purpose of electing a successor to said officer in the event he is recalled. We urge that the said officer ought to be recalled for the following reasons: (here shall follow a brief statement of the reasons urged why the officer should be recalled.) We concur in all other sheets of the petition asking for the same recall election we are asking for. Each of the petitioners whose name follows says for himself: I have personally signed this petition, or made my mark; I am a legal voter for the State of Louisiana, and of the Parish of (naming the Parish) and of (naming the ward), and of (naming the precinct) and my residence and post office address are correctly after my name.

Name	Residence	Post Office
(here shall follow twenty numbered lines for signatures")		

Sec. 3. Be it further enacted, etc., On the opposite side and at the opposite end of each and every sheet containing signatures of a petition asking for a recall election, the person circulating such petition shall make the following affidavit, or in words substantially the same:

State of Louisiana, Parish of .....  
Parish of .....

I, ..... being first duly sworn, say: (here shall be legibly written or typewritten the names of the signers of the sheet) signed this sheet of the foregoing petition and each of them signed his name thereto, or made his mark, in my presence; I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Louisiana, and Parish of ..... and Ward ..... of said Parish and Precinct ..... of such ward (as the case may be). (Signatures of affiant, his residence and postoffice address).

Subscribed and sworn to before me this ..... day of ..... A.D. 19..... (Signature and title of the officer before whom affidavit is made together with his residence and postoffice address). Not more than sixty days time shall intervene between the earliest and latest verifications of any sheet of the petition.

**WARNING TO SIGNERS OF PETITION FOR RECALL.**

Sec. 4. Be it further enacted, etc., There shall be a sheet of paper of the same size as the sheet containing the petition, attached to the page of the sheet containing the petition and space for the signatures and upon which shall be printed the word "Warning" in type at least one-half of an inch and under same in ten point type the following: "Any person who shall knowingly sign a petition asking for a recall election without being a legal voter at the time of signing his name, or who shall knowingly sign his name more than once asking for such recall election, or who shall sign any other name other than his own, is liable to a fine of not more than two thousand dollars, and to imprisonment in the State penitentiary for not more than two years."

**WHO MAY CIRCULATE PETITION FOR RECALL.**

Sec. 5. Be it further enacted, etc., Any legal voter shall be a competent person to circulate a recall petition in the parish or ward of a parish or municipality or ward of a municipality where he votes, and any legal voter in such parish shall be a competent person to sign such petition, but no legal voters shall circulate or sign a recall petition in any other parish than where he votes, and no legal voter shall sign more than one petition asking for an election to recall the same officer, and no person shall sign any other name but his own. Not more than twenty petitioners shall sign the same sheet of a petition asking for a recall election, and the person circulating that particular sheet shall make the affidavit provided for in Section 2, of this Act. Any legal voter may circulate in his parish or municipality any number of sheets of a recall petition. Whenever in the judgment of the person or persons circulating such sheets a sufficient number of signatures have been secured, such sheets shall be attached to a sheet of paper of the same size as the sheet upon which the signatures appear, and upon said sheet shall be written or printed, the following endorsement or words to the same effect: Petition to the Honorable (Governor or Lieutenant Governor of the State of Louisiana, as the case may be) from the legal voters of (here name the territory affected by the recall election sought to be held) asking that the question of recalling (here name officer sought to be recalled and give his legal title) from his office be submitted at a general election to be held throughout (here name the territory affected) within not less than three months, and within not more than five months from the date of the certificate from the proper officers that a sufficient number of legal voters has asked for such recall election."

Immediately following the foregoing, and on the same sheet an affidavit shall be made by any person who circulated any sheet of such recall petition in substantially the following form:

State of Louisiana,

Parish of \_\_\_\_\_

Personally came and appeared before me the undersigned authority (here name person making affidavit) who being duly sworn says: "I circulated one or more of the sheets attached hereto of the recall petition asking for a recall election to determine whether or not (here name officer sought to be recalled and give his official title) shall be recalled from his office and that I have counted the total number of names appearing upon the sheets hereto and that such total number is (here give in words and figures the number) to the best of my knowledge and behalf).

I furthermore do solemnly swear that I have examined each of said sheets, and that to the best of my knowledge and behalf, the signatures upon each and all of said sheets have been verified as required by law. I furthermore do solemnly swear that no more than sixty days has elapsed since the verification of any sheet of this petition as shown by the affidavit thereto attached, and that not more than sixty days have elapsed since the earliest and latest verification of any of the sheets of this petition. I furthermore solemnly swear that the officer whose recall is sought by this

petition has been notified of the intention to circulate this petition as required by law.

Subscribed and sworn to before me this ..... day of .....  
A. D. 19.....

Signature of Person making affidavit.  
(Official title of officer before whom affidavit is made.)

#### **PREPARATION OF PETITION; CERTIFICATES OF REGISTRAR.**

Sec. 6. Be it further enacted, etc., The various sheets containing signatures shall then be bound in a safe and secure manner in one or more volumes containing not more than five hundred sheets each, but to each volume the instrument and affidavit provided for in Section 4, of this Act, shall be attached, but the affidavit provided for in said Section may be made by different persons authorized by sa'd section.

There shall accompany each recall petition a certificate of the registrar of voters or officer discharging the functions of registrar of voters, of any municipality or ward thereof and of each parish affected by the recall petition certifying the total number of voters of any municipality or ward thereof affected by the petition or of his Parish if an entire Parish or more is affected by the recall petition, or if any one or more wards of his parish is affected, then the total number of voters of each ward, duly registered and qualified to participate in the last preceding general election for the office, the incumbent of which is sought to be recalled.

#### **FILING OF VOLUMES CONSTITUTING PETITION.**

Sec. 7. Be it further enacted, etc., The volume or volumes made up as directed in the preceding section of this Act shall be filed in the office of the Secretary of State, who shall issue to the person or persons filing said volume or volumes a receipt sufficiently comprehensive and descriptive as to easily identify the volume or volumes so filed. The Secretary of State, the State Treasurer, and Auditor of Public Accounts shall meet upon call of the Secretary of State within three days after the filing of such recall petition and shall proceed without delay to examine such recall petition, ascertain the number of names signed to same, and determine whether or not such signatures are properly verified and further determine whether or not a sufficient number of signatures have been secured to the said recall petition as fixed in the constitution of this State, and they shall forthwith and within six days after such recall petition has been filed in the office of the Secretary of State, as aforesaid, certified by the Governor or Lieutenant Governor, as the case may be, the result of their examination of said petition. The finding of the said officers as to the sufficiency of such petition shall be final and no court of this State shall have authority by injunction or otherwise to disturb or review their findings or to interfere with them in the discharge of the duties imposed upon them by this Act. All recall petitions, nomination petitions and certificates accompanying same filed in the office of the Secretary of State shall remain there as a part of the archives of that office.

#### **DUTIES OF SECRETARY OF STATE—OF GOVERNOR, ETC.**

Sec. 8. Be it further enacted, etc., The Secretary of State shall certify to the Governor or Lieutenant Governor, as the case may be, the total number of signatures appended to the recall petition filed in his office and the total number of registered voters qualified to participate in the last preceding general election for the office, the incumbent of which is sought to be recalled. If such certificates show that the required number of signatures appear on the recall petition, then the Governor or the Lieutenant Governor, as the case may be, shall immediately notify the officer sought to be recalled, and if there is to be a general election in the territory affected by the recall petition in not less than three months but in not more than five months from the date of the certificate of the Secretary of State, the Governor or Lieutenant Governor, as the case may be, shall issue his proclamation submitting at such general election the question of recalling the officer affected by the recall petition, and he shall in such proclamation

give public notice that a successor to such officer shall be elected at the same time that the recall election takes place. In the event there is not to be any general election to take place in the territory affected by the recall petition until after the expiration of five months from the date of the certificate of the Secretary of State, hereinbefore provided for, then the Governor or the Lieutenant Governor, as the case may be, shall issue a proclamation calling a special election in the territory affected, within the time heretofore set out, submitting the same questions. Such special election, except as otherwise provided in this Act, shall be ordered, conducted and held the same as any general election and the returns thereof shall be made and the result thereof shall be promulgated the same as the result of any general election in the territory affected by the recall election.

It is hereby made the mandatory duty of all election officials, State, parish and municipal, having any duty to discharge in the matter of holding general elections throughout the State, or in any municipality to discharge such duty in the matter of holding any recall election contemplated by this Act.

In the event a majority of votes cast at such recall election shall be in favor of such recall, then the officer shall be deemed recalled, and he shall surrender his office to his successor as soon as his successor has qualified.

**CANDIDATES FOR VACANCY CREATED BY RECALL.**

Sec. 9. Be it further enacted, etc., Any person eligible to the office the incumbent whereof is sought to be recalled may have his name placed on the official ballot by filing in the office of the Secretary of State within fifteen days after the Governor has issued the proclamation as provided for in Section 7 of this Act a petition asking that his name be placed on the official ballot signed by qualified voters of the territory affected by the recall petition to the number of twenty-five per centum of the total number of registered voters qualified to participate in the last general election for the office of the incumbent of which is sought to be recalled. The petition shall be made up of sheets substantially similar to the sheets of the recall petition with but twenty signatures to the sheet, and the signatures shall be verified the same as the signatures of the recall petition. Any person authorized by this Act to circulate a recall petition is hereby authorized to circulate a nomination petition which may be circulated at the same time as the recall petition, and any person authorized by this Act to sign a recall petition may sign any number of nomination petitions. All nomination petitions shall be bound and verified similarly as recall petitions. The Secretary of State, the Auditor of Public Accounts, and the State Treasurer shall examine the nomination petition and if same is found sufficient, they shall issue to the person named in the nomination petition a certificate, and his name shall be placed on the recall ballot, as a candidate to succeed the officer sought to be recalled, and no Court in this State shall have jurisdiction to review their findings, or by injunction or otherwise interfere with them in the discharge of the duties imposed by this Act.

**RECALL BALLOTS.**

Sec. 10. Be it further enacted, etc., The recall ballot shall be prepared, printed and forwarded to the election officers in the territory affected, by the officer or officers whose duty it is, or may be hereafter to prepare, print and forward to the election officers, ballots to be used at regular general elections. Such ballots shall contain the specific questions, "Shall (naming the officer and giving his official title) be recalled?" After the same shall be two squares, one containing the word "yes" and one containing the word "no", and the voter shall stamp either "yes" or "no" as his preference may be, and no ballot shall be considered unless the voter has voted on the question of the recall. A line shall be drawn entirely across the ballot beneath the above question and below this line there shall be printed the names of the candidates arranged alphabetically, and after each name shall be printed two squares, in one of which shall be printed "First Choice" and in the other shall be printed "Second Choice." There shall be printed below the names of the candidates directions to voters,

to the effect that the voter may vote for his first choice and for his second choice of the candidates.

#### ELECTION.

Sec. 11. Be it further enacted, etc., The candidate who is the first choice of the greater number of voters shall be declared to be elected, if the election has resulted in the recall of the officer sought to be recalled.

#### BLANKS.

Sec. 12. Be it further enacted, etc., The Secretary of State shall by or before the first day of February, 1915, prepare and have printed a supply of all blanks described, detailed, set out and contemplated by the foregoing provisions of this Act, and he shall furnish same to any reputable citizens making application therefor.

#### NOTICE TO OFFICER TO BE RECALLED.

Sec. 13. Be it further enacted, etc., Ten days before any recall petition may be circulated, the officer whose recall is sought shall be notified of the intention to circulate such petition by mailing to him under registered (United States) mail, a copy of the petition which it is intended to circulate, which petition shall contain a brief statement of the reasons urged why the officer ought to be recalled, or the officer may be notified by handing him a copy of such petition in person in the presence of two witnesses.

#### PERIOD FOR VERIFICATION, ETC.

Sec. 14. Be it further enacted, etc., Not more than sixty days shall elapse between the earliest and latest verification of any sheet of any petition, and no sheet verified more than sixty days before the filing of the petition in the office of the Secretary of State shall be considered.

#### DESTRUCTION OF RECALL PETITION, ETC.

Sec. 15. Be it further enacted, etc., No person shall destroy any sheet of a recall petition or nomination petition nor any volume of either, nor an entire petition, nor any certificate contemplated by this Act accompanying either, nor shall any person mutilate any of the documents described above, nor shall any name signed to any sheet of any recall or nomination petition be erased or stricken therefrom upon any plea whatsoever, and no person, not a legal voter, shall circulate or sign any recall petition or nomination petition, or verify same, or make any affidavit contemplated or required by this Act.

#### FAILURE OF OFFICERS TO PERFORM DUTY.

Sec. 16. Be it further enacted, etc., Any official whose duty it is by law to do or perform any act necessary or incident to the recall election provided for in this Act, who by this Act is required to do and perform any duty or discharge any function incident or necessary to such recall election, who shall fail or refuse to do and perform such act or discharge any duty or function, shall be guilty of an offense, and shall be punished as provided for in Section 18 of this Act.

#### PURPOSE OF ACT.

Sec. 17. Be it further enacted, etc., It is hereby declared to be the purpose of this Act and of the amendment to the Constitution of the State of Louisiana relative to the recall of certain officers elected by the people, to furnish a quick and sure means by which an officer elected by the people may be removed by the people without intervention of the courts and without delays, and a substantial compliance with the terms, conditions, and requirements of this Act shall be sufficient, so that the spirit and intention of the Act be observed rather than the letter.

#### PENALTIES IMPOSED.

Sec. 18. Be it further enacted, etc., Any person who shall be guilty of any of the offenses denounced by this Act, and who shall be guilty of violating any of the terms of same, shall upon conviction be punished by a

fine of not less than one hundred dollars and not more than two thousand dollars or by imprisonment in the State penitentiary for not less than one year, and not more than three years; either fine or imprisonment or both may be inflicted within the discretion of the Court.

**REPEALING CLAUSE.**

Sec. 19. Be it further enacted, etc., All laws and parts of laws in conflict or inconsistent with the terms and provisions of this Act are hereby repealed.

**WHEN ACT GOES INTO EFFECT.**

Sec. 20. Be it further enacted, etc., That this Act shall not go into effect unless and until the proposed amendment to Article 223 of the Constitution of this State has been adopted, which said amendment is to be submitted to the people of this State at the Congressional to be held therein on the first Tuesday after the first Monday in November, 1914.

Note. Act 235, 1912, p. 524, is the first act on the subject of Recall of officers, and though not repealed *eo nomine* is so in fact.

The amendment to Const. Art. 223 was submitted by Act 309, 1914, p. 633, and was carried at the congressional election held in November, 1914.

**EXTORTION IN OFFICE BY PUBLIC OFFICERS.**

**Act 57 of 1888, p. 59.**

**TITLE.**

AN ACT to amend and re-enact an act entitled "An act punishing extortion in office by the public officers of the State of Louisiana, or parishes, judicial and other districts, and of cities and towns incorporated or having governments authorized by law," being "Act No. 256" of the General Assembly of the State of Louisiana, approved February 15, 1873.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Act No. 256 of the General Assembly of the State of Louisiana, approved February 15, 1873, be amended and re-enacted so as to read as follows:

That any public officer or employee authorized by the Constitution and laws of the State of Louisiana in either the Legislative, executive, judiciary or military departments of the State government, or any officer or employee of the parishes, judicial and other districts, or of cities and towns incorporated or having governments authorized by law, whose compensation for official services or employment therein as fixed by the Constitution or laws thereof, who shall charge, or receive or take, directly or indirectly, any more than the said lawful compensation for said official services or employment, shall be deemed guilty of extortion in office, and shall be punishable in the manner hereinafter prescribed by this act.

Sec. 2. Be it further enacted, etc., That any public officer or employee as designated in Section 1 of this act, who shall fraudulently carry or cause to be carried, directly or indirectly, upon the lists or pay rolls of his office the name or names of persons as employees therein to whom are thus allowed salaries or pay for services not rendered, said pretended employee or employees being such as are commonly known as "deadheads," shall on conviction by a court of competent jurisdiction be guilty of the crime of extortion in office, and shall be punishable in the manner hereinafter prescribed by this act.

Sec. 3. Be it further enacted, etc., That any officer or person violating the provisions of this act shall be deemed guilty of misdemeanor, and upon conviction thereof by a court of competent jurisdiction, shall be liable to pay a fine of not more than one thousand dollars, and to imprisonment for a term not exceeding five years, at the discretion of the court; and any person aggrieved or injured by the acts of said offender shall, independent of any criminal proceedings, be entitled to maintain a civil action against the same for damages or injuries sustained, and a verdict in favor of the party injured, or a conviction of such offender, shall, *ipso facto*, operate a vacation of the office or functions of said offending official or employee.

**Sec. 4.** Be it further enacted, etc., That this act shall take effect and be in force from and after its passage, and all conflicting laws herewith be and the same are hereby repealed.

**Note.—**It is an act of extortion or oppression in office on the part of a sheriff to demand and recover from an accused person in custody the sum of one dollar in cash as a precedent to his release on an appearance bond, and in advance of any trial, conviction and sentence to pay costs. State ex rel Leche vs. Waggoner, 42 La. 54. The Supreme Court is without jurisdiction of an appeal from the conviction of a Justice of the peace, who has been sentenced to pay a fine of twenty-five dollars and to be imprisoned for half an hour, but not at hard labor, even though the conviction ipso facto works a vacation of the office. State vs. Mayer, 117 La. 945.

### **AUTHORITY TO MODIFY CONTRACTS MADE SIX MONTHS PRIOR TO DECLARATION OF WAR WITH GERMANY.**

**Act 208 of 1918, p. 386.**

#### **TITLE.**

**AN ACT** to empower any public body created by the laws or Constitution of the State of Louisiana to modify or amend by mutual consent any contract or agreement awarded by it to any individual, firm or corporation six months prior to the declaration of war by the United States against Germany; and repealing all laws or parts of laws in conflict therewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any public body created or existing by the laws or Constitution of the State of Louisiana is authorized to modify or amend by mutual consent any contract or agreement awarded by it to any individual, firm or corporation six months prior to the declaration of war by the United States against Germany; provided that when any contractor applies for relief from any public body under this Act and before any amendment of an existing contract such public body shall receive and file the complaint of said contractor and immediately thereafter give ten days' notice in a newspaper published within the jurisdiction of such public body that a public hearing will be had upon such application or complaint at the time and place fixed by said public body.

**Sec. 2.** Be it further enacted, etc., That any law or laws in conflict here-with are hereby repealed.

### **OFFICERS, ETC., MUST MAKE SEMI-ANNUAL REPORTS.**

**Act 36 of 1894, p. 38.**

#### **TITLE.**

**AN ACT** to require all State and district boards, State and district officers charged with the reception of or disbursement of public funds to file with the Auditor of Public Accounts, itemized, detailed semi-annual re-pports, and all parish officers and parish boards charged with the re-ception of or disbursement of public funds, to file with the clerk of the district court, itemized, detailed semi-annual reports providing pen-alties for failure so to do.

#### **REPORTS MUST BE ITEMIZED AND DETAILED.**

**Section 1.** (As amended by Act 175, 1904, p. 360.) Be it enacted by the General Assembly of the State of Louisiana, That in addition to the bi-ennial reports now required by law from State and district boards, State and district officers, or other persons receiving or disbursing State or dis-trict funds, said boards, officers and persons shall render, in writing, to the State Auditor, semi-annual, itemized, detailed reports, which in case of the report of a board, or its representatives, shall be signed and sworn to as correct, by the president and secretary of such board, showing the se-veral sums received, and from what source, and the several sums disbursed, and for what purpose, and to whom paid, the said reports to be made on

or before the first day of June and December of each year, when said reports shall be published by said board, in one newspaper published at the domicile of said board; and in the event of failure so to do, on the part of any board or district officer, or other person above named, the auditor shall, within fifteen days after said failure, report such delinquencies to the Governor, who shall be authorized, thereupon, to remove from office the member of said board, or district officer or other person, as for cause, unless it be made to appear to the satisfaction of the Governor that said failure or delinquency occurred from unavoidable or excusable causes.

#### PARISH BOARDS AND OFFICERS.

Sec. 2. Be it further enacted, etc., That all parish boards and parish officers having in charge the reception of or disbursement of public funds shall make semi-annual, itemized, detailed accounts as above required, to the clerk of court of the respective parishes, under the forms, conditions and penalties enumerated in Section 1 of this act.

#### FAILURE TO MAKE REPORT—PENALTY.

Sec. 3. Be it further enacted, etc., That in case any salaried officer of the State failing to file with the Auditor of Public Accounts semi-annual, itemized, detailed accounts, as provided in the first section of this act, the Auditor shall, within fifteen days thereafter furnish to the Treasurer of the State a certificate to that effect and thereafter it shall be illegal for the Auditor to audit any warrant of said officer for salary, or the Treasurer to pay the same, until such time as the delinquent officer shall have complied with the foregoing provisions.

#### REPEALING CLAUSE.

Sec. 4. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be and the same are repealed and that this act shall take effect from and after its passage.

Note. Act 308, 1908, p. 462. Concurrent resolution that officers shall not exceed appropriations.

### REPORTS WHICH NEED NOT BE ITEMIZED AND DETAILED.

#### Act 195 of 1918, p. 369.

##### TITLE.

AN ACT to relieve the charity and insane hospitals of the State of Louisiana from making semi-annual, itemized, detailed reports showing the receipt and disbursement of funds.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Charity and Insane Hospital Boards of the State of Louisiana shall not be required to make semi-annual itemized, detailed reports to the Auditor of the receipts and disbursements of funds; nor to publish said reports in the newspaper.

Sec. 2. Be it further enacted, etc., That all laws in conflict herewith are hereby repealed, especially that part of Section 1 of Act 175 of 1904 applicable to the institutions herein named.

### STATE OFFICERS PROHIBITED FROM CREATING FLOATING INDEBTEDNESS.

#### Act 35 of 1918, p. 44.

##### TITLE.

AN ACT to prohibit any State official, department of the State Government, or State institution from creating, floating indebtedness or deficits in excess of the legislative appropriation or revenues provided therefor; to provide for special emergency cases; to prescribe penalties for the violation of this Act and to repeal all conflicting laws.

**PROHIBITION.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That each and every State official, department of the State Government or head thereof, or State institution or the head thereof whether the same be educational, charitable or eleemosynary, be and they are hereby prohibited from creating any floating indebtedness or deficits in excess of the legislative appropriation or revenues provided for the same.

**WHERE REQUIRED BY EMERGENCY, ETC—APPLICATION TO GOVERNOR.**

Sec. 2. Be it further enacted, etc., That in case any of the foregoing officials or heads of institutions should find that the appropriations and revenues provided for his department or institution are proving insufficient to adequately care for the same, or an emergency arises from some unforeseen cause, that he shall report the situation immediately to the Governor of the State, who, if he finds the facts to be as reported, shall be authorized to call a meeting of the Board of Liquidation of the State Debt, for the purpose of borrowing any amount that may be found necessary to care for said institution or department of the State Government, after having obtained the consent therefor from the members of the General Assembly as provided in existing laws.

**LOCAL BOARDS.**

Sec. 3. Be it further enacted, etc., That no local board of any State institution shall authorize the head thereof to create any floating indebtedness or deficit in excess of its appropriation, but may join him in the presentation of facts to the Governor, to be by him reviewed and submitted to the Board of Liquidation of the State Debt as herein provided for.

**VIOLATIONS—PENALTIES.**

Sec. 4. Be it further enacted, etc., That any State official or head of any department of the State Government or of any State institution who shall violate the provisions of this Act shall be subject to immediate discharge from his office, and if he same be an elective office shall be subject to impeachment therefor, under the charge of malfeasance in office, as provided for in the Constitution and laws of this State.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That any and all laws in conflict herewith be and the same are hereby repealed.

**OFFICERS MUST KEEP RECORD OF MONEY RECEIVED.**

**Act 308 of 1914, p. 633.**

**TITLE.**

AN ACT to require all officials of the State of Louisiana, except Notaries Public, and of the subdivisions thereof to keep a record of all monies received by them and to provide penalties for violations of this act; to repeal all acts in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That all officials of the State of Louisiana, except Notaries Public, and of the subdivisions thereof shall hereafter keep a full and complete record of all monies received by them for account of the State or of the subdivisions thereof, or as fees for services rendered.

Sec. 2. Be it further enacted, etc., That failure to comply with this act shall be a misdemeanor and any official convicted of such misdemeanor shall be subject to a fine of not less than twenty-five dollars nor more than fifty dollars for the first offense, and for the second offense and all thereafter to a fine of not less than one hundred dollars and not more than five

hundred dollars, or imprisonment in the parish prison for not less than thirty days nor more than ninety.

**Sec. 3.** Be it further enacted, etc., That all acts or sections of acts in conflict with this act be and the same are hereby repealed in so far as they conflict with this act.

## JUDICIAL AND MINISTERIAL OFFICERS NOT TO BECOME SURETIES, ETC.

**Act 11 of 1880, p. 18.**

### TITLE.

AN ACT to prevent judicial and ministerial officers from going bail for or becoming surety on the appearance bond of any prisoner or other person in any prosecution or criminal proceedings in or to appear before their respective courts; and to provide punishment therefor.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That hereafter it shall not be lawful for any judicial or ministerial officer of any of the courts of this State, to go bail for any prisoner or other person in any prosecution or criminal proceeding in their respective courts, or to become surety for the appearance of any prisoner or other person before their respective courts to answer to any criminal charge.

**Sec. 2.** Be it further enacted, etc., That any judicial or ministerial officer who violates the foregoing section shall be deemed guilty of a misdemeanor, and on conviction shall be fined or imprisoned, or both, at the discretion of the court, or shall be sentenced to labor on the public works, roads, or streets of the parish or city, as the case may be, for a term not to exceed six months.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with this act be and the same are hereby repealed.

**Note.**—An attorney is not prohibited by the act from becoming a surety on the bail bond of a prisoner. The act refers only to judicial and ministerial officers, such as judges, clerks, sheriffs, and their deputies. *State vs. Babin, 124 La. 1005.*

## EMPLOYING CLERKS AT LESS THAN SALARY ALLOWED BY LAW.

**Act 18 of 1884, p. 24.**

### TITLE.

AN ACT prohibiting and forbidding assessors and registrars from contracting with and employing any person as clerk, at a less salary than allowed by law.

Whereas, It has been ascertained that assessors and registrars frequently contract with clerks for a less sum than the salary provided for by law;

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That no assessor or registrar shall, as a consideration for recommending any person to the Governor for appointment as clerk, be allowed to contract with said person for a less sum than the salary allowed by law to clerks of registrars and assessors.

**Sec. 2.** Be it further enacted, etc., Whoever shall violate the provisions of this act shall be adjudged guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the parish jail for not less than one month, nor more than six months, or both, at the discretion of the court.

**OPTOMETRY.****Act 193 of 1918, p. 363.****TITLE.**

AN ACT to define the practice of Optometry; to regulate the practice thereof; to create a State Board of Optometrists; to provide for the powers and duties of the said board, the composition thereof, and the method of appointment of members thereof, and filling vacancies occurring thereon; to regulate the revenues and expenditure of the said board and the fees and emoluments of the members and employees thereof; to provide for the fees to be paid by applicants for examination, an annual license fee to be paid by all registered optometrists; to provide for examinations to be held by the said board of applicants for certificates and the character of the said examinations; and the issuance, by the said board, of certificates, to provide for the registration of said certificates, provide for the extension or forfeiture of said certificates in certain cases; to prevent the practice of optometry by unauthorized persons, and to provide for the trial and punishment of violators of any of the provisions of this act by fine or imprisonment, or both; to repeal all laws or parts of laws in conflict with or inconsistent with this act.

**DEFINITION OF OPTOMETRY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the practice of optometry is hereby defined to be the employment and application of any means other than the use of drugs, medicines or surgery for the measurement of the powers and testing the range of vision of the human eye and determining its accommodative and refractive state, general scope of function and the adaptation of frames and lenses to overcome errors of refraction and restore as near as possible with such mechanical appliances, normal human vision.

**LOUISIANA STATE BOARD OF OPTOMETRY.**

Sec. 2. Be it further enacted, etc., That the Louisiana State Board of Optometrists, hereby created, shall consist of five optometrists to be appointed by the Governor of the State of Louisiana, within sixty (60) days after the passage of this act, from among optometrists who have been residents of this State, actually engaged in the practice of optometry as defined in this act, for at least five (5) years immediately preceding the time of such appointment. The officers of said board shall be a president and a secretary-treasurer, to be chosen from among the members of the board, and each member of the said board shall hold office for the term of five (5) years, and until his successor shall have been appointed, selected and qualified; except that in case of the first board the members shall be appointed for the term of 1-2-3-4-5 years respectively, the respective terms of the said members of the first board to be designated by the Governor at the time of appointment. Appointments to fill vacancies caused by resignation, removal, or death of any member of the board shall be made by the Governor from a list of five names furnished and recommended by the State Optometrists' Association for the unexpired term. All members of said board shall, before entering on the duties of their office, take the oath required of State officers and shall, except in case of the first board, be holders of certificates issued under the provisions of this act.

**PRACTITIONERS MUST OBTAIN CERTIFICATE.**

Sec. 3. Be it further enacted, etc., That six (6) months from and after the passage of this Act, no person shall practice optometry in this State unless said persons shall have complied with all the requirements of this act and shall have received a certificate to that effect from the secretary-treasurer of the Louisiana State Board of Optometrists.

**FEE FOR EXAMINATION AND CERTIFICATE.**

Sec. 4. Be it further enacted, etc., That this board of examiners is hereby authorized and empowered to charge and collect a fee of twenty-five dollars (\$25.00) from each applicant for examination and certificate. Said fee to be paid when application is filed with the secretary-treasurer of this board. Said secretary-treasurer shall keep a full record of all acts and proceedings of this board and all money received by him shall be held as a special fund for meeting the expenses of the said board, and carrying out the provisions of this act. All records held by him, shall, at reasonable times be open for public inspection.

**BY-LAWS, MEETINGS, ETC.**

Sec. 5. Be it further enacted, etc., That at the first meeting of the board for the purpose of organizing, drafting and adopting by-laws, and fixing dates and places for their regular meetings which shall be held at least semi-annually, shall be held in the city of New Orleans, October fifteenth, nineteen hundred and eighteen, shall be paid out of the fees provided for in this act; provided that no fees or expenses of any kind whatsoever incurred in any way by this board, shall ever be charged to the general fund of the State.

**QUALIFICATIONS OF PRACTITIONERS.**

Sec. 6. Be it further enacted, etc., That every person of good moral character, who at the time of the passage of this act, is engaged in this State in the practice of optometry as herein defined shall, when notified by the secretary-treasurer file an affidavit in proof thereof with the secretary-treasurer of said board showing that he has been actively engaged, in this State, in the practice of optometry for three (3) years. On said affidavit the board shall grant to said affiant a certificate entitling him to practice optometry in this State, upon his payment to the said secretary-treasurer the sum of twenty-five dollars (\$25.00) for the use and purpose of said board.

**ANNUAL LICENSE.**

Sec. 7. Be it further enacted, etc., That all registered optometrists shall pay annually to this board the sum of two dollars (\$2.00) as a license fee for each year, the first license fee to be paid in January, 1919. In case of default in payment of such license fee by any person, his certificate may be revoked by the board, upon thirty (30) days' notice of such proposed revocation to the holder of the said certificate, within which time said holder may pay the said fee. The said fee is purely a license fee imposed solely for the purpose of creating a fund to meet the expenses of the State.

**COMPENSATION OF MEMBERS OF BOARD.**

Sec. 8. Be it further enacted, etc., That each member of the said board shall receive a compensation no more than the sum of eight dollars (\$8.00) for each day actually spent in the performance of the duties in his office and, in addition thereto, mileage, both going and returning over the most direct route, at the rate of three cents per mile, attending meetings of the board. Said sums shall be paid from the fees received by the board under the provisions of this act. No part of the salaries or expenses of the board or any employee thereof shall ever be paid out of any funds other than those created by this act.

**PRACTITIONERS MUST BE GRADUATES, ETC.**

Sec. 9. Be it further enacted, etc., That from and after six months after the passage of this act, no person except as otherwise herein shall practice optometry in this State unless he be a graduate from a recognized school of optometry, having a course of at least two years study, of six months each, and passes an examination, which examination shall be confined to such knowledge as is essential to the practice of optometry, and shall include normal and abnormal refraction, accommodative and muscu-

lar conditions and co-ordinations of the eye, and subjective and objective optometry, including the fitting of glasses, the principles of lens construction and frame adjusting, and such other subjects as may be deemed necessary. Upon successfully passing such an examination, applicant shall receive a certificate entitling him to practice optometry in this State.

**REGISTRATION OF CERTIFICATE.**

Sec. 10. Be it further enacted, etc., that such recipient of such certificate shall, within sixty (60) days after receipt thereof, present said certificate to the clerk of the district court of the parish in which he intends to practice for recordation, and shall pay to the said clerk a fee of fifty cents (\$.50) for the recordation thereof. Failure to file said certificate shall forfeit the same.

**NOT APPLICABLE TO PHYSICIANS, ETC.**

Sec. 11. Be it further enacted, etc., That nothing in this act shall be construed as applying to physicians or surgeons entitled to practice in this State.

**LIST OF REGISTERED OPTOMETRISTS.**

Sec. 12. Be it further enacted, etc., The secretary-treasurer of this board shall under the signature of its president under oath, file annually with the Governor of the State of Louisiana a complete list of all legal registered optometrists.

**APPLICANTS FOR EXAMINATION.**

Sec. 13. Be it further enacted, etc., That any person who signifies to the board his desire to be examined by it, shall appear before the board, at such time and place as the board may designate. If any applicant shall successfully pass the examination, there shall be issued to him by the board, a certificate stating that the applicant has complied with all the provisions of this act relating thereto. All persons successfully passing such examinations shall be registered in a Board Register, which shall be kept by the secretary-treasurer of the board.

**DISPLAY OF CERTIFICATE.**

Sec. 14. Be it further enacted, etc., That every person engaged in the practice of optometry shall cause to be displayed in his place of business the certificate heretofore mentioned. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be punished as hereinafter provided.

**WHEN BOARD MAY SUSPEND CERTIFICATE.**

Sec. 15. Be it further enacted, etc., That the board shall have power to suspend any certificate granted by it, if said certificate was obtained through error or fraud, or if the recipient thereof shall be shown to be grossly incompetent, or who shall use, prescribe, give away, sell or offer for sale, or have in his possession for the above purpose, any eye remedy, lotion, salve, or medicines of any kind or description or practice medicine or surgery, recipient may, upon satisfactory proof to the board that such condition has been remedied, have the same regranted to him.

**VIOLATIONS—PENALTIES.**

Sec. 16. Be it further enacted, etc., That every person who, from and after six months after the passage of this act, shall practice optometry in this State without having first complied with the provisions of this act and having obtained a certificate as provided herein, and any person who shall violate any of the provisions of this act, shall be guilty of misdemeanor, and upon conviction thereof, shall be punished by fine of not less than ten dollars (\$10.00) or more than three hundred dollars (\$300.00), or by imprisonment for not less than ten (10) days or more than six (6) months, or by both, such fine and imprisonment, in the discretion of the court having jurisdiction.

**EFFECT OF PARTIAL UNCONSTITUTIONALITY.**

Sec. 17. Be it further enacted, etc., That if any of the provisions of this act shall ever be held to be unconstitutional or invalid, such unconstitutionality or invalidity of any portion of this act which may be given reasonable effect without the provisions so declared unconstitutional or invalid.

**REPEALING CLAUSE.**

Sec. 18. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent herewith be, and the same are hereby repealed.

**TO WHOM ACT NOT APPLICABLE.**

Sec. 19. Be it further enacted, etc., This act shall not apply to retail dealers selling glasses as merchandise in their established places of business licensed by the State.

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**OSTEOPATHY.****STATE BOARD TO REGULATE PRACTICE OF  
OSTEOPATHY, ETC.**

**Act 185 of 1908, p. 278.**

**TITLE.**

**AN ACT** to regulate the practice of Osteopathy; to create a State Board of Osteopathy, and to regulate the fees and emoluments thereof; to prevent the practice of Osteopathy by unauthorized persons, and to provide for trial and punishment of violators of the provisions of this Act.

**OSTEOPATHS MUST BE REGISTERED, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall hereafter be unlawful for any other than a registered and certificated osteopath to practice osteopathy in this State.

**APPOINTMENT OF STATE BOARD OF OSTEO PATHS; ITS DUTIES AND AUTHORITY.**

Sec. 2. Be it further enacted, etc., That the Governor shall appoint a State Board of Osteopaths, consisting of five respectable osteopathists practicing in this State, whose terms of office shall be so determined by the Governor that the term of one member shall expire each year. Thereafter in each year the Governor shall in like manner appoint one person to fill the vacancy to occur in that year, the term of said appointee to be five years. The vacancies occurring from any other cause shall be filled by the Governor for the unexpired terms. The Board shall within thirty days after its appointment by the Governor meet in the City of New Orleans and organize by electing a president, secretary and treasurer, each to serve for one year. The secretary and treasurer shall each give bond with sureties approved by the Board for the faithful performance of his duties in such sum as the Board may from time to time determine. The Board shall have a common seal and shall formulate rules to govern its actions. The Board shall meet in the City of New Orleans at the call of the president in the month of October following the passage of this Act, and in the October of each ensuing year, and at such times and places as the majority of the Board may appoint. Three members of the Board shall constitute a quorum, but no certificate to practice osteopathy shall be granted on less than three affirmative votes of members of said Board. The Board shall keep a record of proceeding and a register of all applicants for certificates, giving the name and location of the institution granting the applicant any diplo-

ma produced before said Board, the date of such diploma, and also the fact whether in each case a certificate had been granted or refused to the applicant. The record and register shall be *prima facie* evidence of all matters recorded therein. Said Board shall hold examinations for the granting of certificates; it shall report to the prosecuting officer of the State of Louisiana all violations of the provisions of this Act of which it may have knowledge or information; it shall report annually to the Governor on the condition of osteopathy in the State and a record of the proceedings of the Board during the year, together with the names of all osteopaths newly registered under this Act. The fees collected under the provisions of this Act shall be applied to the payment of the expenses of the Board in such manner as it shall direct; provided that no member of the Board shall be paid out of such funds more than the amount spent for travelling expenses in attending meetings of the Board and ten dollars for each day of actual attendance at said meetings.

**REQUIREMENTS FOR REGISTRATION AS OSTEOPATH.**

**Sec. 3.** Be it enacted, etc., That any person twenty-one years of age shall be entitled to registration as a duly registered osteopath on exhibition to the State Board of Osteopathy a diploma from any legally chartered college or school of osteopathy in America or Europe, and filing with said Board an affidavit of applicant stating his age nativity, that he is the person named in said diploma, that he is a regular graduate or alumnus of said institution and had actually practiced osteopathy in this State one year next preceding his application; provided that such person shall have applied to said Board for registration within ninety days after the promulgation of this Act.

**AFFIDAVIT OF APPLICANT; AUTHORITY OF BOARD TO INVESTIGATE**

**Sec. 4.** Be it further enacted, etc., That in case the State Board of Osteopathy shall have reason to doubt the truth of the allegation of any affidavit made under the provisions of this act, it shall have the right to examine into and hear evidence as to the truth of said affidavit and if convinced of the falsity thereof, it shall have the right to refuse registration, subject to the right of the applicant to apply to the courts for relief by mandamus; provided that false swearing in an affidavit hereinbefore mentioned shall be deemed perjury and liable to punishment as in other cases of perjury under existing laws.

**SCOPE OF EXAMINATION IN ABSENCE OF DIPLOMA AND AFFIDAVIT,  
ETC.**

**Sec. 5.** Be it further enacted, etc., That where the applicant furnishes neither the diploma nor the affidavit required by the foregoing sections he shall have the right of registration after having passed a satisfactory examination by the State Board of Osteopathy on the subjects of anatomy, physiology, symptomatology, physiological chemistry and toxicology, osteopathic pathology, diagnosis, hygiene, obstetrics and gynecology, minor surgery and principles and practice of osteopathy; and said State Board of Osteopathy shall thereupon register the applicant and grant him a certificate of registration as an osteopathist, the same as in the case of the production of a diploma or affidavits as hereinbefore provided. The State Board of Osteopathy may grant certificates of registration to licentiates of other State Boards of the duly constituted authorities of osteopathy, without further examination, if said other States or countries in the same manner recognize and validate the certificates of the State Board of Osteopathy created by this Act. The State Board of Osteopathy shall have the right to exact and collect from applicants before issuance of a certificate fifteen dollars; provided, that any person producing a diploma from a legally chartered college or school of osteopathy and who has been actually engaged in the practice of osteopathy in this State for a period of one year prior to the passage of this Act, and who shall apply to said Board within ninety days after this Act goes into effect, may be granted a certificate by said Board to practice osteopathy in this State upon payment of a fee of two dollars to said Board

for said certificate; and provided further, that said State Board of Osteopathy may in its discretion dispense with examinations in the case of osteopathic physicians duly authorized to practice osteopathy in any State or territory of the United States or in the District of Columbia who shall present a certificate of registration or examination by the lawfully constituted Board of Osteopathy of such State, territory or district accorded only to applicants equal qualifications with those required in the State of Louisiana, provided further that after June 30, 1909, no applicant shall be admitted to an examination or receive a certificate to practice osteopathy unless said person shall have graduated from a legally chartered osteopathic school or college, wherein the term of study shall be at least three years of nine months each.

**RECORD OF CERTIFICATE OF REGISTRATION WITH CLERK OF COURT.**

Sec. 6. Be it further enacted, etc., That every person holding a certificate of examination and registration granted by said State Board of Osteopathists shall have the same recorded in the office of the clerk of the district court of each parish in which he practices, and until such recordation shall have been made the holder of said certificate shall exercise none of the rights or privileges conferred by this act. Said clerk of district court shall keep in a book provided for the purpose, a complete list of certificates filed with him for recordation under the provisions of this Act and note therein the date of the recording of each certificate, and he shall be entitled to charge and receive the sum of one dollar for recording each certificate so filed with him.

**PENALTY FOR ACTING WITHOUT LICENSE.**

Sec. 7. Be it further enacted, etc., That any person who shall without having previously complied with the provisions of this Act practice or pretend or attempt to practice osteopathy in this State or who shall use any of the forms or letters, "Osteopathy," "D. O." "Osteopathic Physician," "Doctor of Osteopathy," or any other letters or title, either alone or with other qualifying words or phrases under such circumstances as to induce the belief that the person who uses such words or letters is engaged in the practice of osteopathy, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty dollars, nor more than one hundred dollars for each offense.

**AUTHORITY TO CERTIFY TO BIRTHS AND DEATHS.**

Sec. 8. Be it further enacted, etc., That all osteopaths certificated, registered and practicing under the provisions of this Act shall have the authority and be required to certify births and deaths to the constituted health authorities of the State and the municipal subdivision thereof in the same manner with the same effect and under the same penalties as other physicians.

**REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent with the provisions of this Act be and the same are hereby repealed.

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**OYER.**

[R. S., Sec. 2623.] (Amending C. P., Art. 175, which see.)

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**OYSTER INDUSTRY.**

See Natural Resources, p. 1404.

## PARISHES.

### [Duties of Police Juries—of Surveyors.]

**[R. S., Sec. 2624.]** Whenever the Police Jury of any parish shall pass an ordinance for ascertaining and fixing the boundary lines of any parish adjoining thereto, and shall appoint a time and place for commencing the running thereof, and shall duly serve the President of the Police Jury of said adjoining parish with a copy of the ordinance, with notice of the time and place for commencing the running thereof six months previous to the time so fixed, then the Parish Surveyors of said parishes, or such Surveyors as may be appointed for that purpose, shall proceed to the running and marking of said boundary line, and in case the Parish Surveyor of either parish shall fail to attend at the time and place appointed, then the other Parish Surveyor, after waiting two entire days, shall proceed to the running and marking of the said adjoining boundary line.

**Note.**—The fixing of parish boundary lines is a legislative proceeding, but the determination of the line to be fixed under the statute is a judicial function. Jurisdiction ratione personae et materiae may be determined by the principles underlying questions of reversionary. Thus where the territory affected by the boundary line lies partly in one and partly in the other parish, the suit may be brought in either parish, and the value of the space between the disputed lines would fix the jurisdiction ratione materiae. R. S. Sec. 2624 is in full effect. The course prescribed must be followed. *Parish of Caddo vs. Parish of De Soto*, 114 La. 366, 119 La. 982; *Parish of Caddo vs. Parish of Red River*, 114 La. 370.

Property had been assessed and taxes paid for several years as being in the Parish of Iberville. Under an assessment made of a portion of the property in West Baton Rouge, the property was sold for taxes and adjudicated to the State. Held, the sale was null and void in toto. The State was bound by the acts of her officers in the assessment and collection of taxes. *Bookah vs. Wilbert Sons, L. & L. Co.*, 115 La. 351.

Where the boundary line between two parishes has not been established by a joint survey, as prescribed in this section, the question of the venue of a crime alleged to have been committed in one of the parishes should be referred to the jury to be determined by a preponderance of the evidence, *State vs. Malone*, 124 La. 779.

### [Returns of Survey—How Preserved.]

**[R. S., Sec. 2625.]** Whenever a boundary line shall have been run and marked as above prescribed, due returns thereof shall be made to the President of the Police Juries of both the said parishes, who shall cause them to be carefully filed and preserved in the office of the Recorder.

### [Compensation of Surveyors.]

**[R. S., Sec. 2626.]** Each of the Surveyors shall receive, as full compensation for the running and marking of said lines, five dollars per day, and shall be paid for all reasonable expenses, by the Treasurer of the parish interested.

### [Neglect of Duty by Surveyor.]

**[R. S., Sec. 2627.]** If any Parish Surveyor shall neglect to perform any of the duties herein prescribed, he shall, on conviction thereof, suffer a fine not exceeding fifty dollars and imprisonment not exceeding ten days.

[R. S., Secs. 2628 to 2630.] Collections of judgments against parishes. Repealed by Act 56, E. S. 1877, p. 87.

[**Fines, Etc., for Violations of Law Go to Parishes, Etc.**]

[R. S., Sec. 2631.] The fines and forfeitures collected for violation of the criminal laws of the State, and which have been required by law to be paid into the State Treasury, shall belong to and be paid into the treasury of the parish in which they may be collected, and in New Orleans into the Treasury of the city.

[R. S., Secs. 2632, 2633.] Assessment of land divided by parish lines, of movable property, superseded by Act 170, 1898, Sec. 11, printed under title "Taxation."

[R. S., Secs. 2634, 2635.] Assessment of Property of Corporations, of Capital Stock not invested in Real Estate. R. S., Secs. 3254, 3255, title "Taxation."

[R. S., Sec. 2636.] Police Juries authorized to build temporary levees. R. S., Sec. 3029, title "Public Works."

[R. S., Sec. 2637.] Citizens may be compelled to work on such temporary levees. R. S., Sec. 3030, title "Public Works."

[R. S., Sec. 2638.] Compensation to citizens for work done. R. S., Sec. 3031, title "Public Works."

## ORGANIZATION OF NEW PARISHES.

**Act 27 of 1910, p. 43.**

### TITLE.

**A**N ACT to provide for the organization of new parishes; for the appointment and election of officers therefor; for the transferring of the records and the adjustment of the affairs of the new parish or parishes with the parish or parishes out of which the said new parish or parishes is or are formed.

### APPOINTMENT OF POLICE JURORS.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That immediately after any act shall go into effect establishing and organizing a new parish in this State, the Governor shall appoint and commission to serve as police jurors in said new parish five persons who shall be citizens and electors of the said parish and who shall possess the qualifications now required by law for police jurors; and the Governor shall likewise appoint and commission for said new parish a registrar of voters and a member of the Board of Election Supervisors. The said Police Jurors and the other officers appointed in accordance herewith, shall have the same powers and duties and receive the same compensation as other like officers throughout the State; and shall serve until their successors shall have been duly elected or appointed and qualified, in accordance with this act, or with the other laws of the State.

**ORGANIZATION—ELECTION FOR PARISH SEAT.**

Sec. 2. Be it further enacted, etc., That the police jurors so appointed by the Governor as above provided shall within ten (10) days after the receipt of their commissions meet in said parish at the town at which the affairs of the parish shall be temporarily administered in accordance with the act creating the same, or if no town be so named, then at such town as they may agree on, at which meeting they shall proceed to organize themselves into a police jury for the said parish and shall prescribe the conditions under which any place or towns within said parish may compete at the election hereinafter authorized for the location of the permanent parish seat of said parish; and they shall also immediately divide said parish into not less than five separate wards to be known as Justice of the Peace and Police Jury Wards; shall fix the limits of the voting precincts therein; and shall designate a polling place or places in each of said wards and precincts for holding the special election hereinafter provided for as well as all other elections authorized by law for State and parish officers and all other purposes. They shall also at the same meeting fix a date for the holding of a special election, at which shall be elected for said parish a representative, a clerk of court, a sheriff, an assessor, a coroner, and for each ward in said parish one police juror, one member of the school board, one justice of the peace and one constable, and all other parish officers who under existing laws are required to be elected by the people. This election shall be fixed for a date not less than sixty days nor more than ninety days after the said meeting shall be held and the returns thereof made under the general election laws of the State and the candidates thereat for election to the several offices shall as far as possible comply with all existing laws bearing upon the election of parish officials. All of the officials elected at said election shall qualify and enter upon the duties of their respective offices in the time required by law, and shall hold their respective offices in accordance with law until the next general State election, and until their successors are duly elected and qualified.

**REGISTRATION OF VOTERS.**

Sec. 3. Be it further enacted, etc., That as soon as such parish is divided into Justice of the Peace and Police Jury Wards as provided in Section 2 of this act, the registrar of voters in said parish shall immediately proceed in accordance with law to make a complete registration of the qualified electors in said parish and shall complete same not less than ten (10) days prior to the date fixed for the special election in accordance with the preceding section.

**BALLOTS AT ELECTION FOR PARISH SEAT.**

Sec. 4. Be it further enacted, etc., That at the election provided for in Section 2 of this act there shall also be determined by ballot of the qualified electors of such parish the location of the permanent parish seat. The ballots for this purpose shall be provided by the police jury of said parish and shall have printed thereon the names of all the places to be voted for. The town or place in said parish receiving a majority of all the votes cast at said election shall be and remain the permanent parish seat of said parish; provided that if no town or place at the first election held for this purpose shall receive a majority of all the votes cast, then the two places or towns receiving the highest number of votes and no others shall compete for the location of the parish seat of said parish at a second election to be held therein four weeks from the date of the first election and under the same regulations.

**PUBLIC BUILDINGS, ETC., AT PARISH SEAT.**

Sec. 5. Be it further enacted, etc., That as soon as the location of the parish seat in said new parish is finally determined as herein provided for, it shall be the duty of the police jury of said parish to provide in due time the requisite public lots and buildings and offices, and the seals, books and appurtenances for the parish and for the various offices thereof.

**ELECTION OF OFFICERS.**

Sec. 6. Be it further enacted, etc., That as soon as practicable after the officers of such new parish shall be elected as provided in this act, the clerk of the district court and ex-officio recorder of the parish or parishes from which the territory of the new parish is taken shall transmit to the clerk of the district court and ex-officio recorder for the new parish, all petitions, answers and other documents and papers pertaining to suits in their respective district courts wherein the defendant or defendants are domiciled in said new parish or were domiciled when citation in said suit or suits was served in the territory comprising the said new parish; and shall also transmit a certified copy of all orders made in any such suit which are entered upon the minutes of the said district court and the fees allowed for making such copies shall be six cents for each one hundred words and twenty-five cents for each seal and certificate, to be charged as costs in the respective cases. He shall also transmit all criminal proceedings pending against persons charged with an offense or offenses alleged to have been committed in the territory embraced in the said new parish. He shall also transmit all petitions, orders, bonds and other papers relative to successions opened and yet unsettled or in the course of administration where the deceased was domiciled at the time of his death in the territory embraced in the said new parish; and shall also transmit all papers relating to the tutorship of minors where all or a majority of said minors are domiciled in said new parish. Upon the failure or refusal of the clerk to comply with this section of this act he may be compelled to do so, at his cost by motion made in the district court where the suit or proceedings was instituted by any parties in interest, if the judge of the said court shall be of the opinion that the cause is transferable under this act. The establishment and organization of a new parish shall in no manner affect any suit or prosecution or any civil or criminal proceeding instituted prior thereto. The district judge of the judicial district in which the new parish shall be included shall hold regular terms of his court for the new parish at the parish seat thereof at such times as he may fix in accordance with law; and all suits or prosecutions and all matters, civil, probate and criminal as shall be transferred under this act shall be carried on and proceeded with in the parish to which they are transferred as if they had originated therein and according to law.

**BOOKS OF RECORD; DUTIES OF CLERK, ETC.**

Sec. 7. Be it further enacted, etc., That at the first meeting of the twelve jurors appointed by the Governor for a new parish in accordance with Section 1 of this act, they shall provide and furnish to the clerk of the district court and ex-officio recorder for the parish or parishes out of which the said new parish has been formed a well-bound book of sufficient size in which the said ex-officio recorder shall proceed at once to make a true and correct transcript in the order of dates as recorded in his office of all acts, deeds, mortgages, judgments and title papers recorded in his office after the creation of the said new parish relative to and affecting immovable landed property situated within the limits of the said new parish. The said ex-officio recorder shall affix certificate and seal at the end of each book, together with all original acts, deeds, mortgages and title papers on file in his office from which said transcript shall have been made to the ex-officio recorder of the said new parish as soon as he shall have been elected and qualified, except that in all cases where the boundary line of the new parish shall divide tracts of lands, he shall arrange that the original papers shall remain in the records of the parish containing the larger quantity of land in each of said tracts and that copies of all such papers shall be made for the parish having the lesser quantity of land in the said tract so divided; and certified copies from said records where the originals have not been transmitted shall be receivable in evidence in all the courts of this State. The fees allowed for making such transcripts shall be six cents for every one hundred words, one dollar for the certificate at the end of each book and the actual expenses of transmitting said books. All of

which shall be paid by the treasurer of the new parish on warrant of the president of the police jury thereof.

That the police jury of the new parish shall also have the right in its discretion to cause to be made in addition to the copies of the records herein provided for true and correct copies of all records affecting real estate situated in the new parish and when such records are made and their correctness certified by the clerk of the district court and ex-officio recorder having charge of the original records, copies from same shall be admissible in evidence in any of the courts in this State. The cost of making such copies shall not exceed the fees fixed in this act for similar transcripts.

#### INSCRIPTION OF LIENS, PRIVILEGES, ETC.

Sec. 8. Be it further enacted, etc., That no judgment, lien, privilege or mortgage upon any property shall lose the effect of its inscription by reason of the creation of a new parish if prior to the notification hereinafter mentioned of the qualification of the clerk and ex-officio recorder of the new parish the same has been legally filed for inscription in the parish wherein the lands are situated before the new parish was created. The clerk and ex-officio recorder of the parish or parishes from which a new parish is formed shall continue to receive and file for record and record all acts, deeds, mortgages, judgments and title papers affecting immovable property situated within the limits of the said new parish until he shall receive and file for record notice from the clerk and ex-officio recorder of the new parish that he has qualified and entered upon the discharge of his duties. This notice shall consist of a copy of the official oath of the clerk of said new parish, shall be forwarded by him as soon as practicable after taking the same and shall be filed for record immediately upon its receipt and recorded both in the conveyance and mortgage books as soon as possible by the clerk and ex-officio recorder of the parish or parishes from which the new parish was formed. After the said notice shall be received and filed for record the said clerk of the parish or parishes from which the new parish has been formed shall not record any acts, deeds, mortgages, judgments or title papers relative to or affecting immovable property situated within the limits of such new parish and shall forward immediately to the clerk of court and ex-officio recorder of such new parish all such documents as may be received by him for record, and for any damage resulting from his failure or delay in complying with this section he shall be answerable under his official bond to the party injured thereby.

Sec. 9. Be it further enacted, etc., That immediately upon the qualification of the sheriff and ex-officio tax collector of the new parish the sheriff of the parish or parishes from which the new parish has been created shall forward a list of all persons, firms or corporations located in the new parish subject to pay a license and shall show upon said list the amount of license charged to each said persons, firms or corporations for the year in which the said new parish is created and showing all amounts still due for licenses whether for the said year or years prior thereto; and he shall also furnish a certified abstract of the assessment and tax collector's roll for the year in which the new parish is created, showing the assessment by name, description and amount of all property located in the new parish and showing all amounts still due for taxes whether for that year or prior years on property located in the new parish and the names of the respective tax debtors; and he shall forward to the Auditor of the State a certified abstract giving the names and amount of taxes due by all persons at the time of forwarding the certified abstract of the assessment roll to the sheriff of the new parish, together with a list of all delinquent license debtors, showing the amount due and such taxes and licenses shall be charged to the sheriff of the new parish and credited to the sheriff of the parish or parishes from which the new parish was taken, and thereafter the sheriff and ex-officio tax collector of the new parish shall collect and be accountable for the unpaid taxes on the properties situated therein and the unpaid license, due by persons, firms or corporations located therein. In enforcing the collection of any taxes or licenses that may be thus due,

he shall exercise and enforce all the rights and remedies that existed in favor of the sheriff of the parish or parishes from which the new parish was created and all tax liens, tax mortgages and privileges and all penalties incurred for delinquencies shall attach to and be enforced against the property upon which the privilege exists in the same manner as if the new parish had not been created and the taxes and licenses were being collected by the sheriff of the parish in which the lands were originally assessed or the license payable. The sheriff and ex-officio tax collector of the new parish for all of his services in making and certifying the lists and abstracts required by this section shall be paid by the treasurer of the new parish upon the warrant of the president of the police jury thereof of the amount he shall have reasonably expended for the lists and abstracts, and no more.

**Sec. 10.** Be it further enacted, etc., That all other expenses necessary and incidental to the creation and organization of a new parish and not specially mentioned in this act or in the act creating said parish shall be paid by the treasurer of said new parish on the warrant of the president of the police jury thereof.

**Sec. 11.** Be it further enacted, etc., That it shall be the duty of the police jurors appointed for a new parish in accordance with section 1 of this act to divide the said parish into school districts and that the school fund of new parishes shall be provided in the same manner as for other parishes of this State.

**Sec. 12.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

**Note.**—See *Fontenot vs. Young*, 128 La. 70. An election was held to determine the parish seat of a new parish (Allen). Taxpayers attacked the election as premature, fraudulent and void, etc. Held that under the act (Secs. 2 and 10) the courts were without jurisdiction to review the contest to determine the issue of fraud, etc., but were seized of jurisdiction to decide the question of prematurity. *Nixon vs. Police Jury*, 132 La. 54. The election was not held at a time other than permitted by law. *Nixon vs. Police Jury*, 133 La. 311.

## **PARISHES MAY ADOPT COMMISSION FORM OF GOVERNMENT.**

### **Act 190 of 1914, p. 357.**

#### **TITLE.**

**AN ACT** providing for the election in each parish of the State of Louisiana, the Parish of Orleans excepted, at the next ensuing general State and parochial election after the adoption of the provisions of this act by the people of any parish, and quadrennially thereafter, of a Commissioner of Public Affairs, a Commissioner of Finance and a Commissioner of Public Improvements, and fixing the qualifications of the said officers; providing a Board of Commissioners, in each parish adopting the provisions of this act, to be composed of said three commissioners, defining the powers and duties of said board; and providing that the police juries be superseded by the said board; providing a name and title for said board; defining the powers and duties of each of the said commissioners; fixing the term of office of the said commissioners, designating the oath they shall take, and providing the bonds they shall give; providing the method of filling vacancies in said board; fixing the salaries of the said commissioners; providing for the recall of the said commissioners, and for the initiation and adoption of ordinances by the qualified electors of the parish, and for the reference of ordinances by the qualified electors of the parish; providing the method by which any parish of the State of Louisiana, the Parish of Orleans excepted, may adopt the provisions of this act and the form of government provided in this act; providing the method by which any parish which may have operated under the provisions of this act for more than six years may abandon the form of government provided in this act, and return to and resume its original form of government; and repealing all laws or parts of laws in conflict with this act.

**ELECTION AND DESIGNATION OF COMMISSIONERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That, at the next ensuing general State and parochial election after the adoption of the provisions of this act by the people of any parish of the State of Louisiana, as hereinafter provided, and quadrennially thereafter, there shall be elected at large, in each such parish, by the qualified electors thereof, a Commissioner of Public Affairs, a Commissioner of Finance, and a Commissioner of Public Improvements, each of whom shall be a qualified elector of the parish.

**COMMISSIONERS CONSTITUTE BOARD.**

Sec. 2. Be it further enacted, etc., That the said three commissioners in each parish shall form, constitute and compose a Board of Commissioners, which shall be and is hereby vested with all the powers, and charged with all the duties that, by existing or future laws, are now or may be hereafter vested in or imposed upon the "Police Jury," and that the Police Jury, as constituted at the time of the adoption of the provisions of this act by any parish, as hereinafter provided, shall be entirely superseded by the said Board of Commissioners.

**NAME AND TITLE.**

Sec. 3. Be it further enacted, etc., That the name and title of the said Board of Commissioners shall be "The Board of Commissioners of the Parish of ....." (the name of the parish to be inserted in the blank); and in that name it shall do and perform its official acts.

**DUTIES OF COMMISSIONERS.**

Sec. 4. Be it further enacted, etc., That the powers and duties of the said commissioners shall be divided and apportioned among them in the following manner, to-wit:

The Commissioner of Public Affairs shall be the executive head of the Department of Public Affairs, and, as such, shall have the charge and control of all public buildings and property of the parish, of public health and sanitation, and of the care and maintenance of paupers. He shall be ex-officio tax assessor of the parish, and shall be vested with all the powers, and charged with all the duties of the parish tax assessor under existing laws, and, as such assessor, shall give the bond required by law. He shall also be ex-officio president of the Board of Commissioners.

The Commissioner of Finance shall be the executive head of the Department of Finance, and, as such, shall have charge of all moneys, credits and securities of the parish, and of all receipts and disbursements thereof. He shall also act as treasurer of the parish, and shall give bond for the faithful performance of all of his duties, in amount to be fixed by the Board of Commissioners. He shall be ex-officio clerk of the Board of Commissioners.

The Commissioner of Public Improvements shall be the executive head of the Department of Public Improvements, and, as such, shall have charge and control of all public roads, ways, bridges and ferries, their construction, repair and maintenance. He shall give bond for the faithful performance of all of his duties, in an amount to be fixed by the Board of Commissioners.

All other duties and powers not provided for above shall be distributed among the departments as the Board of Commissioners shall determine by ordinance.

The Board of Commissioners shall act as a Board of Reviewers of assessments made by the Commissioner of Public Affairs, at the time, in the same manner, and with the same powers and duties as the Police Jury superseded by and merged into the said Board of Commissioners.

**TERM OF OFFICE—VACANCIES, HOW FILLED.**

Sec. 5. Be it further enacted, etc., That the term of office of the said Commissioners shall be four years, and they shall qualify and assume their

duties on the first day of June following their election; provider that the first Commissioner of Public Affairs elected in any parish under the provisions of this Act shall not take over the work of the parish tax assessor until the expiration of the tax assessor whom he succeeds. They shall each take the oath required by the Constitution. The Bond of the first Commissioner of Public Affairs in each parish, elected under the provisions of this act, shall be given before he assumes the duties of his office; the bond of the first Commissioner of Finance in each parish, elected under the provisions of this act, shall be the same as that of the Parish Treasurer whom he succeeds, and shall be given before he assumes the duties of his office; and the bond of the first Commissioner of Public Improvements in each parish, elected under the provisions of this act, shall be fixed by the Board of Commissioners and be given by the Commissioner within thirty days after he shall have assumed the duties of his office. The bonds of the Commissioner of Finance and the Commissioner of Public Improvements may be increased or decreased by the Board of Commissioners at any time, and each succeeding commissioner shall, before assuming the duties of his office, give bond in the amount of the bond last given by his predecessor.

In case of the death or resignation of any member of the Board, the vacancy shall be filled by appointment by the remaining members of the board, provided the unexpired term be less than one year; if the unexpired term be more than one year, a special election shall be had to fill the vacancy.

**APPOINTMENT OF SUBORDINATES, ETC., COMPENSATION.**

Sec. 6. Be it further enacted, etc., That the Board of Commissioners may employ and appoint such subordinates and assistants as it may deem necessary, and at compensations to be fixed by a majority vote of the board; the said compensations to be paid in equal monthly installments.

Any commissioner may perform as many duties in his department as the business and economy of its affairs may demand, regardless of official designation or capacity.

Any employee may be required to work in any or all the departments in any capacity, when directed by the board.

And employee or employees may be discharged or removed with or without cause, at any time, by the board, or by any member of the board in whose department and under whose exclusive control he or they may be working. The term of employment of all employees shall expire with that of the board appointing them.

**COMPENSATION OF COMMISSIONERS.**

Sec. 7. Be it further enacted, etc., That the commissioners shall receive the following compensations, and no other, to-wit:

In parishes having an assessment of \$12,000,000, or over, the Commissioner of Public Affairs shall receive a salary of \$3,600.00 per annum, payable monthly; the Commissioner of Finance shall receive a salary of \$2,400.00 per annum, payable monthly; and the Commissioner of Public Improvements shall receive a salary of \$3,000.00 per annum, payable monthly.

In parishes having an assessment of \$5,000,000, or over, and less than \$12,000,000, the Commissioner of Public Affairs shall receive a salary of \$2,400.00 per annum, payable monthly; the Commissioner of Finance shall receive a salary of \$1,800.00 per annum, payable monthly; and the Commissioner of Public Improvements shall receive a salary of \$2,100.00 per annum, payable monthly.

In parishes having an assessment of \$2,500,000, and less than \$5,000,000, the Commissioner of Public Affairs shall receive a salary of \$1,800 per annum, payable monthly; the Commissioner of Finance shall receive a salary of \$1,500.00 per annum, payable monthly; and the Commissioner of Public Improvements shall receive a salary of \$1,620.00, per annum, payable monthly.

In parishes having an assessment of less than \$2,500,000, the Commissioner of Public Affairs shall receive a salary of \$1,500.00 per annum, payable monthly; the Commissioner of Finance shall receive a salary of \$1,200.00 per annum, payable monthly; and the Commissioner of Public Improvements shall receive a salary of \$1,200.00 per annum, payable monthly.

The assessment governing the said salaries shall be the assessment for the year preceding the year of the quadrennial election at which the said Commissioners are elected, and the said salaries shall be neither increased nor decreased during the term of office of the said commissioners; and the said salaries shall be paid out of the monies realized in each parish from the taxation for general purposes. Provided that the proportions of the compensation of the tax assessor required by existing laws to be paid by the State, school boards, levee boards, cities and towns and other taxing district or division be computed as provided by existing laws, and be paid to the Board of Commissioners to assist it in paying the compensations of the commissioners and employees provided for by this Act.

#### **MEETINGS OF COMMISSIONERS.**

Sec. 8. Be it further enacted, etc., That the Board of Commissioners shall have at least two regular meetings in each month, at the Parish Seat; the time for holding these meetings shall be fixed by ordinance, at the first meeting of the board after election and qualification. When the public business of any kind require it, special meetings may be called by the President of the Board, by giving written notice to the other members thereof, at least forty-eight hours before the time designated for said special meeting, and said forty-eight hours to begin to run from service or receipt of notice. The president shall always call a special meeting upon the written application of the other two commissioners.

#### **ORDINANCES, HOW SIGNED, ETC.**

Sec. 9. Be it further enacted, etc., That all ordinances shall be signed by the president, or, in his absence or disability, by the president pro tempore. They shall be attested by the clerk, and recorded in the official minute book of the board. This minute book shall be carefully and fully indexed, following each regular or special meeting.

No ordinance appropriating money for any purpose or carrying any penalty whatever, or granting any concession or franchises, shall have effect until thirty days after its first publication in the official journal of the parish, exclusive of Sundays and holidays, except ordinances for the immediate preservation of the public peace, health or safety, which shall contain a complete statement of the emergency.

In case there is no official journal in the parish, then all publications provided for in this act shall be made as provided in case of judicial sales.

#### **QUARTERLY STATEMENT OF COMMISSIONER OF FINANCE.**

Sec. 10. Be it further enacted, etc., that the Commissioner of Finance shall publish quarterly, in the official journal of the parish, a sworn itemized statement of all disbursements of the board, for all purposes.

The clerk of the board shall, at the same time, publish a synopsis of all official proceedings of the board, during each preceding quarter.

The Commissioner of Finance shall deliver to each of the other commissioners, on the date preceding the first regular meeting of each month, a statement of the finances of the parish, showing particularly the balances in the various items of the budget.

At the first regular meeting of each month, the Commissioner of Public Affairs and the Commissioner of Public Improvements shall each file with the board a detailed report of the matters done in his respective department, and the cost thereof; which reports shall be read in open session, and filed by the clerk as a part of the official records of the parish.

Each commissioner shall have and maintain an office at the Court House of the parish.

**RECALL OF OFFICERS BY ELECTORS.**

Sec. 11. Be it further enacted, etc., That the holder of any office provided for in this act may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of any incumbent of elective office shall be as follows, to-wit: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty per centum of the qualified electors of the parish, demanding an election of a successor of the person sought to be removed, shall be filed with the clerk of the Board of Commissioners, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, or be under one cover; but each signer shall add to his signature his place of residence, and, if in a city, town or village having street numbers, give his street and number. One of the signers of each such paper shall make oath, before an officer competent to administer oaths, that the statements therein made are true, as he believes; and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days of the date of the filing of such petition, the Registrar of Voters shall examine this petition, and ascertain whether or not it is signed by the required number of qualified electors; and he shall attach to said petition his certificates showing the result of such examination. If, by his certificate, the petition is shown to be insufficient, it may be amended within twenty days from the date of said certificate. The Register of Voters shall, within ten days after such an amendment, make a like examination of the amended petition, and, if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect at any time. If the petition shall be deemed and certified sufficient, the clerk of the Board of Commissioners shall submit the same to the Board of Commissioners without delay. If the petition shall be found to be sufficient, the Board of Commissioners shall, by ordinance, order an election, and fix the date for the holding thereof, not less than thirty days nor more than sixty days from the date of the first regular meeting of the board after the date of the register's certificate to the board that a sufficient petition has been filed.

The Board of Commissioners shall make publication of the said election, shall prepare and deliver to the commissioners of election the necessary ballots, tally sheets, ballot boxes, and other election necessaries, and shall appoint the commissioners and clerks of election. The returns of the said election shall be made to the Board of Commissioners, and shall be canvassed by it in open session, and the result immediately declared. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and, unless he requests otherwise in writing, his name shall be placed on the official ballot, without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some person other than the incumbent receive the highest number of votes, the incumbent shall thereupon be deemed removed from the office, upon the qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify within ten days after receiving notification of his election, the office shall be deemed vacant, and another election called. If the incumbent receives the highest number of votes, he shall continue in office. This method of removal shall be cumulative and additional to the other methods provided by law.

All recall elections under this act shall be at large, and by nonpartisan ballot. Any qualified elector of the parish may become a candidate at a recall election, by filing notice of his intention with the clerk of the Board of Commissioners, accompanied by a petition of twenty-five qualified electors requesting the placing of his name on the official ballot. This notice of intention, accompanied by said petition, shall be filed with the clerk at least twenty days before the date fixed for the election.

**ELECTORS MAY PROPOSE ORDINANCES.**

Sec. 12. Be it further enacted, etc., That any proposed ordinance may be submitted to the board by a petition signed by electors of the parish, equal in number to the percentage hereinafter required; the signatures, verifications, certificates, amendment, and submission of such petition shall be the same as provided for petitions in Section 11 of this Act.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty-five per centum of the qualified voters of the parish, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the board, the board shall either (1) pass the said ordinance without alteration, within thirty days after the filing of said petition accompanying the said ordinance; or (2) forthwith call a special election, unless some general election in the parish is fixed within six months thereafter, and at such special or general election, such ordinance shall be submitted without alteration to a vote of the electors of the parish.

If the petition is signed by not less than fifteen per centum, nor more than twenty per centum of the qualified electors, then the board shall, within thirty days, pass the said ordinance without change, or submit the same at the next general election in that parish.

The ballots used when voting upon said ordinance shall contain these words:

"For the Ordinance" (stating the nature of the proposed ordinance), and "Against the Ordinance" (stating the nature of the proposed ordinance).

If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the parish. Any ordinance proposed by petition, or which shall be adopted by a vote of the people, shall be repealed or amended only by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, but there shall not be more than one special election in any period of twelve months for such purpose.

The Board may submit a proposition for the repeal of any such ordinance or for amendment thereto, to be voted upon at any succeeding general Parish or State election; and should such proposition so submitted receive a majority of the votes cast thereon, at such election, such ordinance or ordinances shall thereby be repealed or amended accordingly. Whenever any ordinance is required by this Act to be submitted to the voters of the Parish at any election, the Board shall cause such ordinance to be published in the official journal of the Parish for at least thirty days next preceding the election, and, in case there is no official journal in the Parish, then in the manner provided for judicial sales.

**WHEN ORDINANCES OF ELECTORS GO INTO EFFECT.**

Sec. 13. Be it further enacted, etc., That no ordinance passed by the Board, except emergency ordinances, provided for in Section 9 of this Act, or when required by the general laws of the State, shall go into effect before ten days from the time of passage. If, during the said ten days, written notice is given to the Board by twenty-five electors of the Parish, that a petition of protest against the passage of said ordinance will be filed, then the said ordinance shall not take effect before the expiration of twenty days from the date of the filing of said notice. If a petition be filed with the Clerk of the Board within the said last named twenty days, containing the signatures of electors of the Parish equal in number to at least twenty-five per centum of the qualified voters of the Parish, protesting against the passage of such ordinance, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Board to reconsider such ordinance. If the same is not entirely repealed after reconsideration, the Board shall submit the ordinance, as provided in Section 12 hereof, to a vote of the electors of the parish, either at a special election or at a general election, as provided for in said Section; and such ordinance shall not go into effect and

become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The said petition shall be in all respects in accordance with the provisions of Section 11 hereof, except that it cannot be amended.

**REVISION OF BUDGET, ETC.**

Sec. 14. Be it further enacted, etc., That if, at the beginning of the term of the first Board elected under this Act, the budget and appropriations for the current fiscal year have been made, the Board shall have power, by ordinance, to revise, repeal and change the said budget and appropriations. If, however, the taxes, licenses and other levies have been made to meet the total of this budget, the Board shall not in any change, revision or repeal, exceed the total revenues estimated under the levy already made.

**ALL PARISHES MAY ADOPT ACT—ORLEANS EXCEPTED.**

Sec. 15. Be it further enacted, etc., That any parish of the State of Louisiana, the parish of Orleans excepted, may adopt the provisions of this act, and become organized hereunder as a parish, by proceeding as provided in this Section: Upon the petition of electors equal in number to fifteen per cent of the qualified voters of the parish, certified to by the Registrar of Voters, the President of the Police Jury of the parish shall at once by his proclamation call a special election, and submit the proposition of organizing as a parish under this act. The election so ordered shall be held not sooner than thirty days, nor later than sixty days from the issuance of that proclamation. The proposition submitted shall be: "Shall the Commission form of government, under Act No. (Here insert the No. of this act), of 1914, be adopted?"

The preparation and delivery of ballots, tally sheets, ballot boxes and other election necessaries, shall be attended to and furnished by the Police Jury; the commissioners and clerks of election shall be appointed by it; the returns shall be made to it; and the returns shall be canvassed by it in open session, and the result immediately declared.

In case the said form of government is not adopted at the special election called, the question shall not be re-submitted within two years from the date of that election; after that time it may be re-submitted, in the same manner as provided above.

**ABANDONMENT OF COMMISSION FORM.**

Sec. 16. Be it further enacted, etc., That any parish which shall have operated for more than six years under the provisions of this act may abandon such organization hereunder and may resume its original or "police jury" form of government by proceeding as follows: Upon the petition of not less than thirty per centum of the electors of such parish, a special election shall be called, at which the following proposition only shall be submitted: "Shall the Parish of (name of parish) abandon its organization under Act No. (number of this act) of 1914, and resume its original or "police jury" form of government. If a majority of the votes cast at such special election in favor of such proposition, the officers elected at the next succeeding quadrennial election shall be those then prescribed by the laws of this State for parishes in which the form of government prescribed by this act shall not have been adopted; and upon the qualification of such officers, such parish shall resume its original or police jury form of government, with such changes in or alteration of such police jury form as the laws of this State shall have prescribed; but such change from the one form of government to the other shall not in any matter or degree effect the property, right or liability of any nature or such parish, but shall merely extend to such change in its form of government. The sufficiency of such petition shall be determined, the election ordered and conducted, and the result declared, generally as provided by Section 15 of this Act, insofar as the provisions thereof are applicable."

**REPEALING CLAUSE.**

**Sec. 17.** Be it further enacted, etc., That all laws or parts of laws in conflict with or contrary to the provisions of this Act be and they are hereby repealed.

**PARISH TREASURER.****[Offices of Treasurer to be at Parish Seat.]**

**[R. S., Sec. 2639.]** (As amended by Act 121, 1898, p. 178.) The parish treasurers throughout the State shall be elected by their Police Juries for the term of two years, and they are hereby required to keep their offices at seat of justice of their respective parishes.

**Sec. 2.** (Act 121, 1898, p. 178.) Be it further enacted, etc., that no member of the Police Jury shall be eligible as Parish Treasurer.

*Note.* The title of Act 121, 1898, p. 178, reads: "An Act amending and reenacting Section 2639 of the Revised Statutes." Section 1 of the act does that. Quare is Section 2 of the act within the title?

**[Penalty in Case of Neglect or Refusal.]**

**[R. S., Sec. 2640.]** Any Parish Treasurer neglecting or refusing to comply with the foregoing section, within three months after the passage of this Act, shall be subject to pay a fine of not less than one hundred dollars, nor more than three hundred dollars, recoverable before any court having competent jurisdiction, at the discretion of the court, to be added to the school fund of said parish. This Act to take effect from and after its passage.

**[Duties of Parish Treasurer.]**

**[R. S., Sec. 2641.]** It shall be the duty of the Parish Treasurer to receive and keep the money of the parish, to disburse the same agreeably to law, and take receipts therefor; and he shall keep regular accounts of all receipts and expenditures, and of all debts due to or from the parish, and direct prosecutions ordered by the Police Jury, for all debts that are or may be due to the parish for which he is elected.

*Note.—The parish treasurer has the right and capacity to sue for the recovery of a fine imposed by the police jury for riding or driving on the levee. Parish of St. John ex rel Treasurer vs. Shexnayder, 34 An. 850.*

**[Other Duties.]**

**[R. S., Sec. 2642.]** It shall be his duty to make a detailed report at every regular term of the Police Jury of his parish, and at such other times as the Police Jury shall direct, for all moneys received and disbursed, and of all the debts due to and from the parish, and of all other proceedings in his office, so that the receipts into the Treasury and the accounts of disbursements, together with the debts due to and from the parish, may clearly and distinctly appear.

**[Payment of Money Out of Treasury.]**

[R. S., Sec. 2643.] No money shall be paid out of any parish treasury to any person, unless the same shall have been previously allowed by the Police Jury, or some court or officer lawfully authorized to make such allowance.

**[Presentation of Claims.]**

[R. S., Sec. 2644.] It shall be the duty of all persons having a claim against any parish, which may have been allowed by the proper authorities, to present such claim within sixty days from the date of allowance to the Treasurer. It shall be the duty of the Treasurer to keep a well-bound book, in which he shall make an entry, describing the claim and date of such presentation, and also endorse his name across the back of the claim, with the day and date of such endorsement. No claim shall be received by him from any Sheriff or Collector of Taxes which has not been so endorsed.

Note.—It is the duty of the treasurer—and one that will be enforced by mandamus—to register the claim of the sheriff for expenses incurred by him for the arrest, confinement and maintenance of persons accused of crime, and expenses attending criminal proceedings, when the amount has been certified as correct by the clerk of court and the presiding Judge, and claim is presented within sixty days. But the treasurer need not register claims for services not rendered, or expenses not incurred in criminal proceedings, even if certified by the clerk and presiding Judge. The registry must be made even if there is no money in the treasury, but the registry and endorsement by the treasury amounts to the issuance of scrip or negotiable obligations of the parish. State ex rel Barrow vs. Fisher, 30 An. 514.

**[Oath of Parish Treasurer.]**

[R. S., Sec. 2645.] No Parish Treasurer shall be allowed credit for any voucher he may present in the settlement of any account, until he shall have first taken an oath or affirmation that he has paid the full amount of such voucher in money, or that he has received the same in payment of parish dues, and that he has not speculated thereon himself, nor has he been directly or indirectly interested in any speculation that may have been made in its acquisition.

**[Oath of Sheriff—Tax Collectors.]**

[R. S., Sec. 2646.] No claim against any parish shall be received by any Parish Treasurer from any Sheriff or Collector of Taxes, unless the said Sheriff or Collector shall make oath or affirmation (said oath to be administered by the Treasurers of the several parishes) that he has paid the full amount expressed on the face of such claims, and that he has not, directly nor indirectly, speculated in the public money.

**[Semi-Annual Account of Parish Treasurer.]**

[R. S., Sec. 2647.] It shall be the duty of the Parish Treasurer semi-annually, on the first day of the sitting of the District Court of their parish, to deposit with the Parish Recorder a detailed account of the state and situation of the treasury of their respective parishes.

**[Compensation of Parish Treasurer.]**

[R. S., Sec. 2648.] (As amended by Act 177, 1898, p. 425.) They shall receive for their services such compensation as may be allowed by the police jury, and shall furnish bond in such an amount as may be determined by the police jury, such bond to be recorded in the mortgage book of the parish in which the office of the parish treasurer is located, and said bond to have the effect of a mortgage on all the property of the principal, provided that when the parish treasurer shall produce his quietus, showing that he has accounted for all the funds and property in his possession, he shall be entitled to have his bond canceled and the mortgage resulting from its inscription erased.

**[Penalties.]**

[R. S., Sec. 2649.] Any Parish Treasurer failing or refusing to comply with any of the provisions hereof, shall forfeit and pay, for every offense, the sum of twenty-five doallrs, to go into the Parish Treasury.

**[Misapplying Public Funds.]**

[R. S., Sec. 2650.] Any Parish Treasurer who shall misapply the public funds placed in his hands belonging to the parish, or refuse to account satisfactorily for the same, shall, on conviction, be fined in a sum of not less than five hundred dollars, for the use of the parish, and imprisoned at the discretion of the court for not less than three months, and, together with his securities, shall be required to pay interest, as damages, at the rate of five per cent. per month on all sums not accounted for, in which judgment may be rendered.

**[Office of Treasurer and Collector not to be Held by Same Person.]**

[R. S., Sec. 2651.] Be it further enacted, etc., That no person shall be allowed to hold at the same time the two offices of Parish Treasurer and Collector of Parish Taxes.

[R. S., Secs. 2652 to 2654.] Duty of Parish Treasurer in relation to sale of school lands. R. S., Secs. 2958 to 2960, title "Public Lands."

[R. S., Secs. 2655, 2656.] Lease of lands when majority of voters is against sale. Interest on funds from sale of school lands goes to credit of township, etc.. R. S., Sec. 2962, 2963, title "Public Lands."

[R. S., Secs. 2657 to 2659.] Value of Improvements on Sixteenth Sections. Notes of purchasers, lease of section where voters refuse to sell. R. S., Secs. 2943 to 2945, title "Public Lands."

[R. S., Sec. 2660.] Parish Treasurer may retain two and one-half per cent from amount realized from sale. R. S., Sec. 2961, title "Public Lands."

[Proceedings Against Bond of Tax Collector Failing to Pay.]

[R. S., Sec. 2661.] Whenever any person charged with the collection of parish taxes shall fail to pay over the taxes collected by him within thirty days after being required to do so by the police jury, or other parochial authority, by a written demand served by any constable of the parish, the police jury or other parochial authority shall have the right, on filing in the office of the clerk of the district court a certified copy of his bond, and the return of the constable, showing the demand made on him, to obtain from the clerk an execution against the collector for the amounts which he may have so collected and failed to pay over, which execution shall have the same force and effect as the distress warrant or execution, when issued by the Auditor, and any property sold under it shall be sold for cash, without the benefit of appraisement.

Note. For Bonds of Sheriff as Tax Collectors, see Acts 52, 1880, 26 E. S., 1907, R. S. 3539. All under title Sheriff, and Act 170, 1888, Secs. 6, 37, 38, printed under title "Revenue and Taxation."

FUNDS NOT TO BE WITHDRAWN FROM TREASURY.

Act 189 of 1912, p. 335.

TITLE.

AN ACT making it unlawful for any Parish Officer or Subordinate Officer thereof to draw any money from the Parish Treasury, other than his fees, salary, per diem and mileage and prohibiting said officers and subordinate officers from in any manner dealing in Parish Warrants, claims or paper and providing penalties for the violation of this Act.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be unlawful for any Parish Officer thereof to draw any money directly or indirectly, from the Parish Treasury, other than his fees, salary, per diem and mileage.

Sec. 2. Be it further enacted, etc., That no Parish Officer or Subordinate Parish Officer, shall be allowed in any manner to deal in Parish Warrants, Claims or Paper.

Sec. 3. Be it further enacted, etc., That any Parish Officer or Subordinate Parish Officer, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than fifty dollars, nor more than one hundred dollars, or by imprisonment in the Parish for not less than ten days nor more than three months, or by both such fine and imprisonment in the discretion of the Court.

Sec. 4. Be it further enacted, etc., That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

## PARTITION.

### [Where Partition Suits Shall Be Brought.]

[R. S., Sec. 2662.] That where a partition of a succession has been or may be made, belonging to one or several heirs, who are present or represented therein, all actions relative to the said succession shall be brought against the heirs before the District Court of the district where the succession is opened, which court shall have an exclusive jurisdiction to try the same, though the heirs or any of them may reside out of the district.

### [Partition Between Co-Proprietors.]

[R. S., Sec. 2663.] That whenever two or more persons shall be co-proprietors of one continuous tract of land situated partly in different parishes, any one or more of the co-proprietors may institute an action for partition of the whole of the tract in any one of such parishes.

[R. S., Sec. 2664.] Where property is partitioned in kind, the mortgages and liens attach to the portion attached to the mortgagor and cease to attach to the shares allotted to his co-proprietors. R. C. C., Art. 1338.

[R. S., Sec. 2665.] Sale of land situated in part in two parishes how made in execution. R. S., Sec. 3403, title "Sales."

[R. S., Sec. 2666.] Major co-proprietors may demand that sale for purpose of partition, be made for cash. R. C. C., Art. 1342.

### [Partition Where Minors Are Interested.]

[R. S., Sec. 2667.] (As amended by Act 245, 1918.) When two or more persons, some or all of whom are minors or persons interdicted, hold property in common and it is the wish of a co-owner or co-owners, or of a minor or minors, or of an interdict or interdicts represented by his, her or their tutor or tutrix, or curator or curatrix on the advice of a family meeting duly held and convened according to law to represent said minor or minors, or interdict or interdicts to effect a partition of the property held in common, the whole of said property may be sold at private sale for its appraised value, said appraisement to be made and the terms of said sale to be fixed by a family meeting duly convened for that purpose on behalf of the minor or minors, interdict or interdicts as the case may be, and any co-owner or co-owners may purchase the entire interest of the said minor or minors, interdict or interdicts at private sale for its appraised value, said appraisement of the value of the interest of the said minor or minors, interdict or interdicts to be made and the terms of the said sale to be fixed by the family meeting convened for that purpose on behalf of the said minor or minors, interdict or interdicts, and the said proceedings of the said family meeting to

be approved and homologated by the Judge of the District Court of the Parish in which the said minor or minors, interdict or interdicts reside.

**Note.**—Where in what purports to be a partition proceeding the interest of the minor alone in the property is sold at private sale, the purchaser acquires no title. Where a minor is interested, the law requires a sale—public or private—of the whole property to effect a partition. The sale is void whether the purchaser be a co-owner or a third person. *Moore vs. Gulf Ref. Co.*, 124 La. 607; *Fahey et al. vs. Fahey*, 128 La. 503; citing and affirming *Gallagher vs. Lurgis*, 116 La. 755.

The appointment of an undertutor ad hoc for a minor in a partition proceeding is proper, even if both parents are living. Where the mother alone is living, it is doubtful whether she could obtain the appointment of a tutor ad hoc for the purpose of partition, but the appointment may be made in a suit for partition by the mother and a major child. In a partition suit the mere allegation, unsupported by proof, that there are no relatives living, warrants the naming of friends to constitute the family meeting. Evidence is not required to show that a small city lot with a house on it is indivisible in kind. *Blandin vs. Blandin*, 126 La. 819. See also *Dautrieve vs. Shaw*, 47 An. 889, where both parents were living. The sale may be private, even if the mother alone be living. *Blandin vs. Blandin*, 126 La. 819. See Act 50, 1912, infra, and note that the decisions cited were rendered before the amendment of the section by Act 245, 1918.

## **PRESCRIPTIVE PERIOD TO SET ASIDE PARTITION SALES, ETC.**

**Act 53 of 1912, p. 63.**

### **TITLE.**

**AN ACT** to provide a period of prescription in which actions may be brought to set aside or annul sales of real estate made to effect partition under the provisions of Section 2667 of the Revised Statutes of Louisiana where the sole reason for attack is that a part and not the whole of the property was sold.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That any action to set aside or annul a sale of Real Estate, made in good faith, to effect a partition, under the provisions of Section 2667 of the Revised Statutes of Louisiana, where the sole reason for the attack upon such sale is that a part and not the whole of the property sought to be partitioned was sold and where said sale was made prior to the passage of this act, shall be prescribed by the lapse of six months from and after the promulgation of this act.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with this act are hereby repealed.

**Note.**—The prescription applies to minors. The act is constitutional. *McNamara et al. vs. Marx*, 136 La. 159. The act is a statute of repose, *id.*

## **PARTITION BETWEEN MAJORS AND MINORS, WITHOUT DRAWING LOTS.**

**Act 15 of 1918, p. 21.**

### **TITLE.**

**AN ACT** to authorize the partition in kind of property held in common among some of whom are *sui juris*, and some of whom are not, without the necessity of drawing lots.

Be it enacted by the General Assembly of the State of Louisiana:

**Section 1.** That when property is held in common among persons some of whom are *sui juris* and some of whom are not, said property may be divided in kind without the necessity of drawing lots when the co-owners, who are *sui juris* consent to the proposed partition and the proper court having jurisdiction, on the recommendation of a family meeting duly convened and held, shall have authorized it on behalf of those co-owners who are not *sui juris*.

**Sec. 2.** That all laws contrary to or in conflict with this act be and they are hereby repealed.

**FEE OF ATTORNEY FOR PLAINTIFF IN PARTITIONS.****Act 69 of 1918, p. 105.****TITLE.**

AN ACT to provide for the fixing of the fee of the attorney for the plaintiff in all partition suits and proceedings, in cases where there is no contest by defendant in the suit, or proceeding, and no attorney employed by him; and for the assessment of the same by the Court as cost of the suit, or proceeding, to be paid out of the mass of the funds, or property, to be partitioned, prior to the partition of the same.

Section 1. Be it enacted by the General Assembly of the State of Louisiana; That in all cases of judicial partition, either among co-heirs or other co-owners of property or funds, where there is no contest by the defendant, co-heirs or other co-owners, of the property or funds the partition of which is petitioned for, the fee of the attorney bringing the suit, or proceeding, for the plaintiff shall be fixed by the judge ordering the partition, and shall be assessed as costs of the suit, or proceeding, for partition, and ordered paid out of the mass of the funds, or property, to be partitioned, prior to the partition of the same. Provided that no part of said fee so allowed shall be paid out of the part adjudged to belong to absentees represented therein by a curator ad hoc, or to minors represented by a curator ad hoc; or out of the portion going to one or more of the defendants represented in said suit, or proceeding, by an attorney employed by such party or parties.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict or inconsistent herewith, be, and are hereby, repealed; and that this act shall take effect from and after its passage.

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**PARTNERSHIP.**

[Transacting in Name of One Not Interested, Etc.)

[R. S., Sec. 2668.] Hereafter no person shall transact business in the name of a partner not interested in his firm, and when the designation "and company" or "& Co.", is used, shall represent an actual partner or partners.

**Note.** The defendant excepted, averring that the plaintiff co-partnership had no existence in fact, that J. R. Kent alone did business under the name. Held the only purpose of the section was to prevent fraud and imposition on creditors, exception overruled. J. R. Kent & Co. vs. J. F. Molomer, 36 A. 259. (the question is fully considered) Joel B. Wolfe (doing business under the firm name of Udolpho Wolf, Son & Co.) vs. Ulysse Joubert, 45 A. 1100. We have held that one may recover a debt due him, though engaged in business under the style of a partnership; but that ruling has not been extended beyond cases in which the recovery was sought in the proper name of the party to whom the debt was due. C. P. Art. 15. In re Great Southern Lumber Co., 132 L. 905.

[Penalty for Offending Sec. 2668.]

[R. S., Sec. 2669.] Any person offending against the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor and be punished by a fine not exceeding one thousand dollars, recoverable before any court of competent jurisdiction.

**REGULATING PARTNERSHIPS.****Act No. 248 of 1918, p. 439.****TITLE.**

AN ACT to regulate the carrying on of any business of buying and selling merchandise by co-partnership; fixing the liability of co-partners; requiring the filing of such certificates of co-partnership and providing penalties for the violation of this act.

**REGISTRATION OF NAMES OF PARTNERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That no two or more persons shall hereafter be engaged in carrying on any business of buying and selling merchandise as co-partners unless such persons shall first make and file with the Register of Conveyances of the Parish of Orleans and the clerks of court in the other parishes of the State, as the case may be, in which such co-partnership business is or shall be located, a certificate in writing, to be signed by each partner, and verified by the affidavit of one of the members of said partnership, setting forth the full name of each and every person composing the said co-partnership, and the residence of each, the name and style of the firm and the length of time for which it is to continue, if limited by the partnership contract, and also the locality of their place of business; which certificate shall be kept in the office of the said Register of Conveyances of the Parish of Orleans, or in the office of the clerk of court in the other parishes of the State, as the case may be, as a public document and open to the inspection of any person.

**CHANGES IN MEMBERSHIPS.**

Sec. 2. Be it further enacted, etc., That in case there shall be at any time after the making and filing of said certificate, any change in the name or style of said firm, or in the term of its existence, then a new certificate, verified as before specified, shall in like manner be filed as required by Section 1 of this act, before such change shall take effect; and until such new certificate shall have been made and filed, as above specified, the individual members of the firm, as set forth in the certificate on file, shall be held to be the actual members of the firm, and in all respects holden and liable for any obligation, debt or liability, incurred by the said co-partnership.

**CERTIFIED COPY TO OTHER PARISH.**

Sec. 3. Be it further enacted, etc., That a certified copy of said certificate on file in the office of the Register of Conveyances of the Parish of Orleans and in the office of the clerk of court in the other parishes of this State, signed by the Register of Conveyances for the Parish of Orleans or by the clerk of court in the other parishes of the State, shall be held to be good and sufficient evidence of any or all of the facts set forth in said certificate.

**PRESENT FIRMS MUST REGISTER.**

Sec. 4. Be it further enacted, etc., That persons now owning or conducting any such business as co-partners shall file such certificate as hereinbefore prescribed within ninety days after this act shall take effect, and persons hereafter owning, conducting or transacting business as aforesaid shall, before commencing said business, file such certificate in the manner hereinbefore prescribed.

**DUTY OF REGISTER OF CONVEYANCES.**

Sec. 5. Be it further enacted, etc., That the Register of Conveyances for the Parish of Orleans, and the clerks of court for this State, shall keep an alphabetical index of all certificates provided for herein and for the indexing and filing of such certificates they shall receive a fee of twenty-five cents, to be paid by the party filing the same, and a like fee for each certified copy of said certificates.

**FAILURE TO REGISTER—PENALTY.**

**Sec. 6.** Be it further enacted, etc., That any two or more persons owning, carrying on or conducting or transacting business as aforesaid who shall fail, neglect or refuse to comply with the provisions of this act, shall each be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the parish jail for a term of not exceeding thirty days or by both such fine and imprisonment in the discretion of the court, and each day any person or persons shall violate any provision of this act shall be deemed a separate offense.

**REPEALING CLAUSE.**

**Sec. 7.** Be it further enacted, etc., That all laws and parts of laws in conflict herewith, be, and the same are hereby repealed.

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**PAWBROKERS.****REGULATION OF PAWBROKERS.**

**Act 155 of 1918, p. 266.**

**TITLE.**

AN ACT for the regulation of Pawnbrokers and to provide punishment for those who act as Pawnbrokers without complying with the provisions of this Act.

**WHAT INDICATES BUSINESS OF PAWBROKER.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That every person, firm or corporation who loans money on a deposit or pledge or as security for money or other things advanced to the pawnner or pledgor, or who purchases property for selling same back at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, namely, "Three gilt or yellow balls," or publicly exhibits a sign of "Money to Loan on Personal Property or deposit," shall be and is hereby declared and defined to be a pawnbroker.

**MUST OBTAIN LICENSE BEFORE ENGAGING IN BUSINESS.**

**Sec. 2.** Be it further enacted, etc., That no person shall do business as a pawnbroker without having first obtained the license required by law therefor. Any person, firm, or corporation desiring a license as pawnbroker shall make application in writing therefor, setting out in such application (a) the full name and residence of the applicant, if an individual or a partnership, and if a corporation the name and residence of each of its officers; (b) the location at which it is intended or desired to conduct such business. Upon the payment of the license and the filing of the bond hereinafter provided for, said applicant shall be licensed to carry on, conduct or engage in the business of pawnbroker at the place designated in such license.

**PROCEEDINGS WHERE CHANGE IS MADE IN LOCATION.**

**Sec. 3.** Be it further enacted, etc., That if after issuance and delivery of a license under the provisions of this act any change be made in the location of the place of business designated therein, no pawnbroker's business shall be carried on or engaged in at such new location or under such license, until the official who issues pawnbroker licenses, notes the change on the license and the Superintendent of police of the city in which the pawnbroker is doing business is notified in writing of the change.

**BOND WHICH PAWNBROKERS MUST FURNISH.**

Sec. 4. Be it further enacted, etc., That every person making application for license to conduct the business of pawnbroker shall submit with his application, as hereinbefore provided for, a bond in favor of the City or Parish, as the case may be, in the sum of five hundred dollars, with good and solvent sureties, conditioned for the due observance of all provisions of this act.

**BOOKS WHICH PAWNBROKER MUST KEEP.**

Sec. 5. Be it further enacted, etc., That every pawnbroker shall keep a book in which shall be fairly written in ink at the time of each loan an accurate description in the English language of the person making the loan, as well as the goods, article or thing pawned or pledged, the amount of money loaned thereon and the time of pledging the same. When a watch is pawned, the number, name of maker, letters or marks must also be entered in said book, and whenever any articles manufactured from gold or silver are pawned, all letters or marks must also be entered in the same book. No entry made in such book shall be erased, obliterated or defaced.

**BOOKS MUST BE OPEN FOR INSPECTION.**

Sec. 6. Be it further enacted, etc., That the book containing records of loans and pledges as provided for in this act nad the various articles pledged and referred to therein, shall at all times be open to the inspection of the superintendent of police or any one designated by him in writing, of the city or town in which the pawnbroker does business.

**DAILY REPORT OF ENTRIES.**

Sec. 7. Be it further enacted, etc., That it shall be the duty of every person licensed as aforesaid to make out and deliver to the superintendent of police of the city or town in which the pawnbroker is doing business, every day before the hour of twelve o'clock noon, a legible and correct copy of the entries made in the book mentioned in Section 5 hereof during the previous day. The name given by the person making a loan shall also be furnished the superintendent of police when he specially requests it in writing.

**SALE OF JEWELRY PAWNED.**

Sec. 8. Be it further enacted, etc., That no pawnbroker shall sell any jewelry pledged to him as collateral security for loans made before an elapse of twelve months from the time of the loan, neither shall he sell other property than jewelry pledged to him for a loan before the elapse of three months.

**HOURS OF BUSINESS.**

Sec. 9. Be it further enacted, etc., That a pawnbroker shall neither open his place of business before the hour of 7:30 A. M. nor keep it open after the hour of 7 P. M., except Saturdays and the month of December, during which time the hour of 7 P. M. shall be extended to 10 P. M.

**SHALL NOT ACCEPT PAWNS FROM MINORS.**

Sec. 10. Be it further enacted, etc., That no pawnbroker shall take or receive in payment or pledge for money loaned any property, bonds, notes, securities, articles or other valuable thing from any minor.

**VIOLATIONS—PENALTIES.**

Sec. 11. Be it further enacted, etc., That any pawnbroker who shall violate, neglect or refuse to comply with any provision of this act shall be fined not less than \$25.00 nor more than \$100.00 for the first offence, or be imprisoned not less than ten nor more than thirty days, or both at the discretion of the court, and \$500.00 for the second and subsequent offenses, or be imprisoned not less than thirty nor more than sixty days, or both at the discretion of the court, and if convicted three times his license shall be revoked and he shall thereafter not be permitted to engage in the business of pawnbroker in the State of Louisiana.

**PENALTIES.**

**Sec. 12.** Be it further enacted, etc., That any one acting as a pawn-broker without complying with the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be fined not less than \$250.00, nor more than \$500.00 or be imprisoned not less than thirty nor more than sixty days, or both at the discretion of the court.

**REPEALING CLAUSE.**

**Sec. 13.** Be it further enacted, etc., That all laws in conflict herewith be and the same are hereby repealed.

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## **PEDDLERS AND HAWKERS.**

**[Who Included Under Designation.]**

**[R. S., Sec. 2670.]** That under the designation of Peddlers and Hawkers, shall be included all persons who travel about the country with goods, wares and merchandise, for sale or barter, whether on foot, or horseback, or in a wagon, or other conveyance; or in any craft on the water courses of this State, or who shall receive in payment for freight either produce, goods, wares or merchandise, or any or all of these articles, with intent to, or who shall actually barter, sell or exchange the same in any way.

The provisions of this section shall not be so construed, as to extend to any person employed, bona-fide, in the selling, on board any boat or water craft, the produce or manufactures of any of the United States, when such produce or manufactures alone are sold; nor to those persons who only sell in the country the produce of their own plantations.

**[Must Exhibit License.]**

**[R. S., Sec. 2671.]** All Peddlers and Hawkers shall be bound to exhibit their license, (when thereto required) to any freeholder of this State.

### **USE OF CARTS, ETC., IN PEDDLING—LICENSE PLATE.**

**Act 73 of 1890, p. 58.**

**TITLE.**

AN ACT to declare it unlawful to use any wagon, cart, buggy, or other vehicle for the purpose of carrying on the business commonly known as peddling; or for any person to engage either on foot or on horseback in the above named business, without having first obtained and attached to their vehicle or person in a conspicuous manner a license plate or badge to be marked and numbered in the manner hereinafter provided, and to provide a penalty for the violation of the provision of this act.

**PEDDLERS MUST OBTAIN LICENSES.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall hereafter be unlawful for any person or persons to engage in the occupation comonly known as peddling either in a buggy,

cart or other vehicle, on foot or horseback, without first having obtained from the sheriff ex-officio tax collector of the parish in which they wish to carry on their business, license plate or badge bearing the name of the parish, number of the license which they hold for carrying on said business and date of the year in which said license was issued.

**ISSUE OF LICENSE PLATES.**

Sec. 2. Be it further enacted, etc., That the sheriff and ex-officio tax collector and tax collectors of the several districts shall on presentation to him by any person or persons, of a license duly paid and signed authorizing said person or persons to carry on the said business of peddler issue to him or them a license plate, if the business is to be carried on in a vehicle, or a license badge if the business is to be carried on foot or horseback, marked and numbered as set forth in the preceding section, for which he (the sheriff and tax collectors of the several districts and parishes) shall receive the sum of twenty-five cents for each and every one of said license plates or badges to be paid by the person or persons making application for same.

**FAILURE TO DISPLAY BADGE.**

Sec. 3. Be it further enacted, etc., That any person or persons carrying on the said business of peddling who shall fail or neglect to display said plates or badges in a conspicuous manner by attaching said license plate to their vehicle, or said license badge to their person, shall be liable to pay a fine of not less than ten nor more than twenty-five dollars or be imprisoned for not more than thirty days or both at the discretion of the court.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws or parts of laws contrary to or in conflict with this act be and the same are hereby repealed.

Note. Act 128, 1900, printed at — authorizes Police Juries to regulate Hawkers and peddling.

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## PENSIONS.

[R. S., Secs. 2673 to 2675.] Relates to Pensions for Veterans of 1814 and 1815, and in that capacity in the Battle of New Orleans, repealed or superseded by Act 61, 1876, printed infra.

### PENSIONS FOR VETERANS OF WAR 1812-1815.

Act 61 of 1876, p. 103.

**TITLE.**

AN ACT to provide an annual pension for the surviving veterans of the war of 1812 to 1815 who participated in the seige or battles of New Orleans in December, 1814, and January 1815, as well as for the surviving widows of such veterans; to fix and determine the mode and cost of ascertaining who shall receive such pension; and to repeal all the laws hitherto enacted on the same subject matter.

**PERSONS ENTITLED TO PENSION.**

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That from and after the first day of January, A. D. 1876, each and every surviving veteran

of the war of 1812 and 1815, who participated in the seige or battle of New Orleans in December, 1814, and January, 1815, and is and remains a citizen of and domiciled in this State, as well as the widow of any such veteran, shall be entitled to have and receive from the State of Louisiana a pension of twelve dollars per month payable quarterly, on his or her own warrant, drawn upon the Auditor of Public Accounts, who shall warrant therefor upon the State Treasurer, out of any funds in the State treasury not otherwise appropriated.

**APPLICANTS MUST PROVE RIGHTS TO PENSION.**

Sec. 2. Be it further enacted, etc., That any person residing or domiciled in this State, claiming to be a veteran of the war of 1812 and 1815, and to have participated in the battle or seige of New Orleans in December 1814, and January 1815, being a resident then and a citizen now of this State, and desiring to avail himself of the benefits of this act, shall be required to prove his right to such pension before the parish court in which he may reside, when such parties reside outside of the Parish of Orleans, and before the Third District Court for the Parish of Orleans, when such person shall reside in the Parish of Orleans; that such proceedings shall be taken contradictorily with the State, which shall be represented therein by the district attorney of the particular district where such proceedings are had, and that in all cases the party so claiming or seeking the benefits of this act shall establish upon the evidence of two or more witnesses that he was regularly enlisted in the military service of the United States, or this State, in the war of 1812 and 1815; that he participated in the seige or battles of New Orleans in December, 1814, and January, 1815, and was honorably discharged afterward from such service; that he is a resident of this State, being a resident then and a citizen now of this State, and that he is over seventy-five years of age, in order to warrant a judgment or decree to be rendered in favor of the person so applying, granting him all the rights and benefits of this act.

**WIDOWS OF SOLDIERS, ETC., MAY CLAIM.**

Sec. 3. Be it further enacted, etc., That in cases where a person entitled to the benefits and privileges of this act has departed this life, or may hereafter die, leaving him surviving a widow, and such deceased veteran may not have been the recipient of such pension, or may not have established his right to such pension, the widow of such deceased veteran shall be required to furnish the same evidence as specified in the second section of this act, and in like manner, together with evidence of her marriage, before she shall be entitled to have and receive the pension herein granted; and in case where such deceased veteran may have been the recipient of such pension it shall be only necessary for his widow to furnish unto the Auditor of Public Accounts satisfactory evidence of the fact of her marriage with such deceased veteran, or they lived together as man and wife.

**CERTIFIED COPY OF RECORD.**

Sec. 4. Be it further enacted, etc., That a full and complete certified copy of the record in each and every case of any person applying for the benefits of this act shall be transmitted by the clerk of the court wherein such proceeding may be taken, after judgment shall have been rendered therein, unto the Auditor of Public Accounts for preservation and reference, and that upon judgment being rendered in favor of any person so applying for the benefits and privileges of this act, the Auditor of Public Accounts shall thereafter recognize the warrant of such person for said pension as valid and issue thereafter regularly the necessary warrants in his favor for the amount of his pension accruing or incurring from and after the day and date of judgment being rendered in favor of such applicant, and moreover place the name of such person on the list of those declared to be entitled to said pension.

**NO FEE FOR CLERK.**

Sec. 5. Be it further enacted, etc., That the clerk of the court in which such proceedings may be taken shall not be entitled to demand or receive anything for his fee, for all costs entailed in such proceedings, including the aforementioned certified copy of the record.

**SALE, ETC. OF PENSION IS VOID.**

Sec. 6. Be it further enacted, etc., That any sale, mortgage, hypothecation or transfer of the whole or any part of any pension that may become payable to any person under this act, shall be void and of no effect; that no pension shall be paid to any person other than the pensioner entitled thereto, or his or her order certified by the clerk of the district court for the parish in which the applicant resides, nor shall any widow receive such pension beyond the period of her widowhood, and that the pensioner may be required, if thought proper by the Auditor of Public Accounts, to substantiate that he is the proper person entitled to receive the pension.

**LIMIT ON AMOUNT OF ANNUAL DISTRIBUTION.**

Sec. 7. Be it further enacted, etc., That the whole amount to be expended under this act shall not exceed ten thousand dollars annually, which, if inadequate to pay all pensioners proving up their claims as above provided, shall be ratably distributed among them.

**REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws or parts of laws heretofore enacted on the same subject matter, as well as all laws inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect from and after its passage.

*Note.* Pensioners of the State may join in a proceeding, and if the aggregate of their claims are sufficient, the Supreme Court has appellate jurisdiction. The State ex rel. St. Cyr et al. vs. Jumel, Auditor, 34 A. 201.

**SOLDIERS' HOME.****Act 62 of 1882, p. 73.****TITLE.**

AN ACT to amend and re-enact Act No. 103, approved March 17, 1866, entitled "An Act Founding a Soldiers' Home for Louisiana," and making an appropriation therefor, payable out of the revenues of the years 1883 and 1884.

**TEMPORARY HOME IN NEW ORLEANS.**

Section 1. (As amended by Act 102, 1896, p. 151.) Be it enacted by the General Assembly of the State of Louisiana, That until suitable grounds be purchased and proper buildings erected for the full development of the purposes of the present act, some tenement within the city of New Orleans, or its environs, shall be rented with a view of establishing temporarily a "Soldiers' Home" for the care and reception of all Louisiana soldiers, or all soldiers who have resided in the State of Louisiana five years prior to the date of their application for admission to the said home and who are not already pensioned or provided for by the State.

**BOARD OF MANAGERS; QUORUM, ETC.**

Sec. 2. (As amended by Act 128, 1898, p. 194.) Be it further enacted, etc., That a Board of Managers, under the name and style of the Board of Directors of the Soldiers' Home of the State of Louisiana for the proper direction of the affairs of the said institution, is hereby created, to be composed of fifteen (15) members, i. e. five (5) to be selected from their number by the Benevolent Association of the Army of Tennessee; five (5) to be selected from their number by the Benevolent Association of the Army of Northern Virginia, and five (5) to be selected by the Governor from

among the Confederate Veterans of established honorable service up to the surrender, who shall hold office for a term of four (4) years, except the first board selected under this act, of which two of the five members of each association and two of those selected by the Governor shall have incumbency of office for two years only, as shall be determined by lot at the first meeting of the board. Their successors in office shall thereafter be selected for four years.

The directors shall be commissioned by the Governor. The board shall elect one from among themselves as president, and in the absence of the president they may choose one from among themselves to act as president pro tem.

A majority of the members shall constitute a quorum to do business. They shall meet at least once every month and as much oftener as the president may deem necessary.

#### **POWER TO MAKE BY-LAWS, ETC.**

Sec. 3. Be it further enacted, etc., That said Board of Directors shall have power to make all necessary by-laws and regulations to govern said institution, also the power to make all contracts necessary for the rent, construction and repair of buildings belonging to or in the use of the home, and for the purchase of land upon which to construct the same; to appoint and remove the necessary superintendent, matrons, physicians, and such other officers and employees as the board may deem proper for the good management of said home, and to fix their compensation; to solicit contributions in currency or in kind, and to accept any donations or legacies, by will or otherwise, for the sole and exclusive use and benefit of said home, and to sue and be sued, plead and be impleaded, in all actions appertaining to the home; provided, that the person elected treasurer by the Board of Directors shall be required to give a bond of five thousand dollars (\$5,000) for the faithful performance of his duties under this act, which bond shall be approved by the said Board of Directors.

#### **APPLICATIONS FOR ADMISSION.**

Sec. 4. (As amended by Act 102, 1896, p. 151.) Be it further enacted, etc., That all applicants for admission into the Home must establish to the satisfaction of the Board of Directors that they were soldiers or sailors in the military or naval service of the Confederate State and enlisted from the State of Louisiana, or some other State composing the Confederacy, and have resided in this State for five years prior to their application for admission into the Home, and that they are not pensioned or otherwise provided for by the State; and show by proper vouchers that they served in such Confederate military or naval service until honorably discharged and were maimed or disabled in said service, or that they have become infirm, by reason of sickness or old age, provided that whenever any applicant presents himself for admission without proper vouchers to the superintendent he shall receive him temporarily into the home and until his claims for permanent admission can be passed upon and adjudged by the Board of Directors.

#### **REPORT TO LEGISLATURE.**

Sec. 5. Be it further enacted, etc., That it shall be the duty of the Board of Directors to make a report or statement to the Legislature at their regular session of the conditions and affairs of said home, specifying therein the amount of receipts and expenditures, the amount of inmates received into the home, and the number of deaths occurring therein.

#### **APPROPRIATION.**

Sec. 6. Be it further enacted, etc., That in order to carry out the provisions of the present act, the sum of five thousand dollars (\$5,000) is hereby appropriated; two thousand five hundred dollars (\$2,500) out of the revenues of 1883, and two thousand five hundred dollars (\$2,500) out of the

revenues of the year 1884, out of any moneys in the treasury not otherwise appropriated, to be paid on the warrant of the president of said Board of Directors.

Be it further enacted, etc., That this act shall take effect from and after its passage.

## **HOME FOR WIVES, ETC., OF CONFEDERATE SOLDIERS, ETC.**

### **Act 120 of 1912, p. 143.**

#### **TITLE.**

AN ACT to provide for a home for the wives and widows of Confederate Soldiers who are inmates of the Confederate Soldiers' Home, by setting aside a part of the buildings of the Confederate Soldiers' Home or by the erection of additional buildings for such purposes, and providing for the carrying out of this act by the Board of Directors of the Soldiers' Home of the State of Louisiana.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the wives of all the present inmates of the Soldiers' Home of the State of Louisiana, known as Camp Nicholls, and the wives of all Confederate Soldiers who subsequently under existing or subsequently enacted laws of this State, shall become inmates of the said Soldiers' Home, shall be provided a home at the said Camp Nicholls, also the widows of Confederate veterans, provided that they possess the same qualifications as are fixed for veterans to enter said homes.

Sec. 2. Be it further enacted, etc., That such home for such wives shall be provided either by setting aside a part of the buildings of the Confederate Soldiers' Home or by the erection of additional buildings for such purpose, as shall be determined by the Board of Directors of the Soldiers' Home of the State of Louisiana.

## **CENSUS OF CONFEDERATE SOLDIERS, ETC.**

### **Act 71 of 1908, p. 86.**

#### **TITLE.**

AN ACT to provide for the enumeration of ex-Confederate soldiers and widows of deceased soldiers residing in this State, and to fix the compensation thereof.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the assessor of each parish of the State to make an enumeration of all the ex-Confederate soldiers and widows of deceased soldiers residing in his parish, stating their age and from what State they enlisted and in what regiment and company they served; also stating kinds and amount of property owned by them and assessed to them, their means of acquiring livelihood and what physical infirmities they are affected with; said enumeration to be made at the same time the enumeration of educable children is made, and every four years thereafter.

Sec. 2. Blanks for the said enumeration shall be prepared by the State Auditor of Public Accounts who shall furnish same to the parish assessors of the State and the assessors of the several parishes shall make the enumeration and shall deliver a copy of the same to the clerks of the District Court of the several parishes, and to the clerk of the District Court of the Parish of Orleans, to be filed in his office and shall send a copy to the Auditor of the State to be filed in his office.

Sec. 3. For making such enumeration the said assessors shall receive the same compensation as received for the enumeration of educable children to be paid by the State when a copy of same shall have been received, approved and filed by the State Auditor.

**PENSIONS FOR CONFEDERATE SOLDIERS AND SAILORS.****Act 125, 1898, p. 184.****TITLE.**

AN ACT for the pensioning of indigent Confederate soldiers or sailors, veterans, and indigent widows of Confederate soldiers and sailors, as per Article 303 of the Constitution and to fix the fees of attorneys or agents for procuring pensions and fixing a penalty for the violation of same.

**BOARD OF PENSION COMMISSIONERS, ETC.**

Section 1. (As amended by Act 184, 1906, p. 336.) Be it enacted by the General Assembly of the State of Louisiana, That the Auditor of Public Accounts of the State of Louisiana, the Adjutant General of the State, and three Confederate veterans of established war record, selected by the Governor of the State to hold office for two years, shall constitute the Board of Pension Commissioners, who are invested with full power and authority to receive, hear and pass upon all applications for pensions under the provisions of Article 303 of the Constitution and amendments thereto, and to prescribe such rules and regulations touching such application at such time as they may deem necessary for the proper conduct of their business as such Board and to hear evidence touching such applications at such time and place and in such manner as they may desire, and to allow or refuse pensions according as law and justice may require.

The Board shall elect its secretary who shall receive the sum of one hundred and fifty dollars (\$150.00) per month, payable monthly on his own warrant, and each member constituting said Board shall receive five hundred dollars (\$500.00) per annum for his services, which said salaries, together with the traveling expenses of the members of the board in attending meetings, postage, stationery and incidental expenses, shall be paid out of the amount appropriated for pensions.

They are invested with full power over the entire pension roll at all times, and it is their duty to strike from the roll such names as may be improperly there, after proper notice and hearing.

Their decision shall be final.

**AMOUNT OF PENSION AND TO WHOM GRANTED.**

Sec. 2. Be it further enacted, etc., That a pension not to exceed eight dollars a month shall be allowed to each Confederate soldier or sailor veteran who possesses all the following qualifications:

First. He shall have served honorably from the date of his enlistment until the close of the late civil war, or until he was discharged or paroled in some military organization regularly mustered into the army or navy of the Confederate States until the surrender.

Second. He shall be in indigent circumstances and unable to earn a livelihood by his own labor or skill.

Third. He shall not be salaried or otherwise provided for by the State of Louisiana, or by any other State or Government.

In case he enlisted in any organization mustered into said service as a Louisiana organization, or in case at a date of his enlistment he resided in the State of Louisiana, he shall have resided in this State for at least five years prior to his application for a pension. In case he resided elsewhere than in this State, and enlisted in an organization not mustered in from Louisiana, or in the navy of the Confederate States he shall have resided in this State for at least fifteen years prior to his application for such pension. A like pension shall be granted to the widow who shall not have married again, in indigent circumstances, of any soldier or sailor who having entered the service of the Confederate States during the late Civil War lost his life prior to June 1, 1865, from wounds received or disease contracted in such service, provided, that if her deceased husband served in any organization mustered in from Louisiana, or if he resided in Louisiana at the date of his enlistment and had so resided for one year prior thereto, then in order that such widow shall be entitled to the pension as

herein provided she shall have resided in this State for at least five years prior to her application therefor and if her deceased husband enlisted elsewhere than in Louisiana, and served in an organization not mustered in from Louisiana such widow shall, in order to entitle her to the pension as herein provided, have resided in this State for not less than fifteen years prior to her application for such pension, provided further, that pensions, whether to veterans or to widows, shall be allowed only from the date of application under this article, and the total appropriation for all pensions shall not exceed the sum of fifty thousand dollars in one year.

**PENSION TO BE GRADED.**

Sec. 3. Be it further enacted, etc., That the rates of pensions to be paid under this act shall be graduated by the Board of Commissioners according to the condition of disability or indigents or family demands of the applicant. The Board of Commissioners shall pass on all applications and give their approval before a pension shall be granted. When granted the Auditor of the State shall issue his warrant quarterly to the pensioner for the amount of the pension on the Treasurer, who shall pay the same out of monies appropriated for pensions.

**ACQUISITION OF COMPETENCY AVOIDS PENSION.**

Sec. 4. Be it further enacted, etc., If from inheritance, or otherwise, any pensioner shall acquire a competency sufficient for his support, or dies, it shall be the duty of the Board to strike such pensioner from the pension roll.

**REGISTER OF PENSIONERS.**

Sec. 5. Be it further enacted, etc., That the Board of Pension Commissioners shall keep a book in which shall be recorded the names of each pensioner, his residence, his company and regiment or naval service with date, place, nature of wound received or disability, how occasioned, and where, date and place where paroled or discharged; if discharged where remaining until the surrender and the date of granting and amount of pension. In the case of widows, the causes and date and place of their husband's death shall appear in said book.

**FEES OF ATTORNEYS FOR APPLICANTS.**

Sec. 6. Be it further enacted, etc., That it shall be the duty of the Board of Commissioners to fix the fees of attorneys prosecuting applications for pensions, which shall in no case exceed five dollars.

**PENALTIES.**

Sec. 7. Be it further enacted, etc., That it shall be a misdemeanor, punishable by a fine not less than \$25.00 and imprisonment not less than ten days for any person to contract for or receive directly, or indirectly, more than the legal fees herein fixed for prosecuting pension claims under this act. The Board of Pension Commissioners are required to investigate such matters and have them brought before the courts.

**RELIEF OF CONFEDERATE VETERANS AND WIDOWS.**

**Act 217 of 1916, p. 466.**

**TITLE.**

**AN ACT** allowing all confederate veterans and widows whose applications have been allowed or approved by the Board of Pension Commissioners of the State of Louisiana during the year 1915 to draw their pro rata of monies disbursed for that purpose from the time their respective applications were allowed or approved, and authorizing the secretary of said Board of Pension Commissioners to pay same by voucher as soon as the funds are available.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all Confederate veterans and widows whose applications have been allowed or approved by the Board of Pension Commissioners of the State of Louisiana during the year 1915 to draw their pro rata of monies disbursed for that purpose from the time their respective applications were allowed or approved, and authorizing the secretary of said Board of Pension Commissioners to pay same by voucher as soon as the funds are available.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be, and the same are hereby repealed.

## **ARTIFICIAL LIMBS FOR CONFEDERATE SOLDIERS.**

**Act 169 of 1902, p. 322.**

### **TITLE.**

**AN ACT** to provide substantial artificial limbs for the citizens of this State, who lost a limb or limbs in the military service of the Confederate States; for the repair of same, and for certificates when it is shown that the artificial limb to which he is entitled, is of no practical benefit to him.

### **APPROPRIATION FOR ARTIFICIAL LIMBS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the sum of five thousand dollars, or so much thereof as may be necessary, out of the Pension Fund, be, and the same is hereby appropriated, annually, to supply the citizens of this State who lost a limb or limbs in the service of the Confederate States, with substantial artificial limbs, and to provide for the necessary repairs of same.

### **LIST OF DISABLED SOLDIERS.**

**Sec. 2.** Be it further enacted, etc., That the list of disabled soldiers now on file in the office of the Adjutant General, shall be the guide as to the number and kind of artificial limbs to be supplied by the State.

### **CONTRACT FOR LIMBS.**

**Sec. 3.** Be it further enacted, etc., That the Adjutant General, under the direction of the Governor, be, and they are hereby authorized and empowered to contract for the manufacture of said limbs, and to adopt necessary precautions to insure prompt dispatch on the part of manufacturers in the delivery of their work, and that the same will be done in a substantial, and first-class manner, in every particular.

### **PAYMENT FOR LIMBS FURNISHED.**

**Sec. 4.** Be it further enacted, etc., That the manufacturer shall take a receipt from the beneficiary for the limbs supplied, with the endorsement of said beneficiary, that the work has been delivered, and proven satisfactory, which receipt shall bear the contract price on the face thereof, which receipt when endorsed by the Adjutant General, shall be the voucher for the Auditor of Public Accounts for warrants which shall be issued on its presentation on the Treasurer for the amount of the contract price, the same rule and provisions to be followed in the repairs of any artificial limbs supplied any beneficiary under the provisions of this act.

### **COMPENSATION IN LIEU OF LIMB.**

**Sec. 5.** Be it further enacted, etc., That in any case any one of the beneficiaries under this act, shall conclude that the disabilities are of such a nature that the artificial limb to which he is entitled, would be of no practical use or benefit, to him, then, in order that he may have the benefit of his pro rata share of the appropriation for artificial limbs, commencing 1902, and every four years thereafter, it is hereby provided, that he may go before the clerk of the District Court of the parish in which he resides, and

make affidavit that the limb to which he is entitled would be of no practical benefit to him, which affidavit shall entitle him to a certificate equal in amount to the price of the limb to which he is entitled; and shall be forwarded to the Adjutant General who shall, if he finds it correct, endorse thereon the contract price of the limb to which he is entitled which affidavit, and endorsement of the Adjutant General shall be the voucher of the Auditor of Public Accounts for the warrant which he shall issue on the State Treasurer, and in favor of said beneficiary against the funds of the year in which the receipt or certificate is given.

**RENEWALS EVERY FOUR YEARS.**

Sec. 6. Be it further enacted, etc., That those who receive artificial limbs, or certificates in 1902, shall be entitled to the benefit of this act in 1906, and those who are supplied in 1903, to the benefit of this act again in 1907, it being the intention of this act that the beneficiary shall be supplied with artificial limbs or certificates, every four years.

**REPEALING CLAUSE.**

Sec. 7. Be it further enacted, etc., That all laws, or parts of laws in conflict with this act be and the same are hereby repealed.

**BACK PAY OF SOLDIERS OF SPANISH WAR.**

**Act 211 of 1906, p. 366.**

**TITLE.**

AN ACT to provide for the execution of the trust imposed upon the State of Louisiana by the acceptance of the back pay due to the soldiers of this State who served in the Spanish-American War for service rendered by them from the day they volunteered in April and May 1898, until the day they were mustered into the service of the United States, to create a commission for this purpose and to prescribe the manner in which said commission shall distribute said amount and to provide for the compensation and expenses thereof.

**SPANISH AMERICAN WAR VETERANS FUND.**

Section 1. (As amended by Act 115, 1910, p. 179.) Be it enacted by the General Assembly of the State of Louisiana, That all moneys the Governor shall receive from the Treasurer of the United States for account of back pay to the soldiers of this State who were mustered into the service of the United States in the Spanish-American war for pay due them from the day they volunteered in April and May 1898, to the day they were mustered into the service of the United States shall be kept by the Governor to the credit of the "Spanish-American War Veterans' Fund" and placed in bank as shown in Section 2 of Act 43 of 1906 and shall be held in trust for the use of the persons or the legal representatives, or authorized counsel of the persons entitled thereto by inheritance, devise or written authority, and until the same shall be paid over as hereinafter provided; and not any of said fund shall ever be turned into the general fund, or other fund, of the State, or otherwise diverted from the purpose for which same was appropriated by the United States Government.

**LIST OF CLAIMANTS.**

Sec. 2. Be it further enacted, etc., That when said moneys shall be received by the Governor, and deposited by him in the State Treasury, it shall be the duty of the Governor to publish in the official Journal of the State a list of all persons having claims against said funds as original claimant, heir, devise or legatee, or otherwise, to come forward and make proof thereof and file their claim for registry with him.

**CLAIMS—HOW FILED.**

Sec. 3. (As amended by Act 115, 1910, p. 179.) Be it further enacted, etc., That all claims under this act shall be filed with the commission here-

inafter provided for and shall be verified by application that the claimant, or his legal representative, is entitled to be paid out of said fund, and all such claims shall, when filed, be registered in a book to be kept by said commission and be styled the "Spanish-American War Veterans' claim book," and no unpaid claims, filed or not filed with the said commission, shall ever be prescribed. The list furnished by the United States Government of the persons entitled to said pay shall be *prima facie* evidence of the claim or claims of the persons whose names are contained in said list.

#### **COMMISSIONERS OF FUND.**

Sec. 4. Be it further enacted, etc., That a commission is hereby created to consist of four citizens of this State to be appointed by the Governor of the State to be styled the Commissioners of the "Spanish-American War Veterans' Fund," who with the Governor as ex-officio chairman, shall constitute a commission; and three of whom shall constitute a quorum, who shall be charged with the duty of determining all claims against said fund and paying out the same to the party or parties entitled thereto, through the Governor of the State.

Said commission shall immediately meet after the publication of the notice of publication above provided, and shall prescribe the rules of procedure and method, of proof for the presentation and establishment of claims against said fund, and may provide all proper blanks for the use of claimants to be furnished on application, and to do all other things necessary to carry out the purposes of this act.

#### **WARRANTS FOR PAYMENT OF CLAIMS.**

Sec. 5. Be it further enacted, etc., That at the expiration of three months, or within such time, the said Constitution shall meet and pass upon and determine all claims against said fund in the order of registration, and such as may be allowed by the commission, shall be paid by the State Treasurer upon the warrant of the Auditor of Public Accounts out of said fund.

#### **ONLY ACTUAL EXPENSES TO BE PAID.**

Sec. 6. (As amended by Act 115, 1910, p. 179.) Be it further enacted, etc., That the said commission shall receive no compensation from any source for its services. The actual expenses of each member of said commission in going to, attending, and coming from, meetings thereof, also all the expenses of distributing the fund, including the remuneration of the secretary of the commission, shall be paid out of the interest arising from the deposit of the funds in bank, and principal of said fund shall never be liable for any of said expenses.

## **PHARMACY.**

### **TO REGULATE THE PRACTICE OF PHARMACY, ETC.**

**Act 66 of 1888, p. 74.**

#### **TITLE.**

AN ACT to regulate the practice of pharmacy; to regulate the sale of compounded medicines and drugs, preparations and prescriptions; to regulate the sale of poisons; to create a State Board of Pharmacy, and to regulate the fees and emoluments thereof; to prevent the practice of pharmacy by unauthorized persons; and to provide for the trial and punishment of violators of the provisions of this act by fine or imprisonment.

**ONLY REGISTERED PHARMACISTS MAY ACT.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That it shall hereafter be unlawful for any other than a registered pharmacist to compound medicines, drugs or chemicals, or to institute or conduct any apothecary or drug store, or pharmacy shop for compounding drugs, medicines or chemicals, or for any person to be employed therein, or placed in charge thereof, for the purpose of compounding drugs or chemicals under prescriptions or otherwise.

**QUALIFICATION OF REGISTERED PHARMACIST.**

**Sec. 2.** (As amended by Act 165, 1914, p. 283). Be it further enacted, etc., That after December 31, 1914, any person twenty-one years of age, presenting an affidavit setting forth a practical experience of four years in the manipulating and compounding of physician's prescriptions in drug stores under the supervision of a registered pharmacist, shall be entitled to registration after having passed a satisfactory examination before the State Board of Pharmacy; and any person eighteen years of age shall be entitled to registration as a qualified assistant after having two years' apprenticeship service under a registered pharmacist, and having passed a satisfactory examination before the State Board of Pharmacy; A qualified assistant shall have the right to act as clerk or salesman in a drug store, and assume charge thereof for not more than twenty-four consecutive hours, during the absence of the registered pharmacist thereof. It shall be the duty of all registered pharmacists, who take into their employ an apprentice for the purpose of becoming a pharmacist, to report to the Board of Pharmacy such facts regarding his schooling and preliminary qualifications as the State Board of Pharmacy may require for the purpose of registration. The State Board of Pharmacy shall furnish the proper blanks for this purpose, and issue a certificate as a registered apprentice at a cost not more than one dollar. Every registered pharmacist and qualified assistant shall apply for a renewal of said certificate annually on or before January first, and pay therefor to the Treasurer of the State Board of Pharmacy the sum of one dollar. Any registered pharmacist or qualified assistant failing to apply for a renewal of certificate annually shall have his or her certificate revoked by the State Board of Pharmacy, and shall cease to have authority to carry on the practice of pharmacy until he or she shall have paid to the treasurer of the State Board of Pharmacy the registration fee.

**TO WHOM ACT IS NOT APPLICABLE.**

**Sec. 3.** Be it further enacted, etc., That the foregoing provisions of this act shall not apply to or affect any person who shall be engaged in the actual preparation, compounding and dispensing of medicines or drugs in the drug and apothecary business as proprietor of the same, or as qualified assistant therein at the time of the passage of this act, except in so far as relates to registration and fees provided in section five. A qualified assistant engaged in the business at the time of the passage of this act, is one who has had not less than two years practical experience in the preparation, compounding, and dispensing of medicines, or drugs in the drug or apothecary business. All other actual assistants actually engaged in the business at the time of the passage of this act, shall, upon the completion of a like term of two years' experience, be entitled to registration as qualified assistants without examination; provided, that nothing contained in this act shall in any manner whatever interfere with the business of any registered practitioner of medicine, nor in any way prevent him from administering or supplying his patients with such drugs and medicines as he may deem fit and proper, nor shall it interfere with the making and dealing in proprietary medicines, popularly called patent medicines, nor prevent storekeepers from dealing in and selling the commonly-used standard medicines and poisons, if all such standard medicines and poisons included in this section, conform in all respects to the requirements of section seven. Nor shall this act apply to any planter furnishing medicines to hands in his employment or leasing lands from him.

**EXAMINATION OF APPLICANT.**

Sec. 4. Be it further enacted, etc., That in case the board of pharmacy shall have reason to doubt the truth of the allegations of any affidavit made under the provisions of the foregoing section, it shall have the right to examine into and hear evidence thereon, and if convinced of the falsity thereof, it shall have the right to refuse registration, subject to the right of the applicant to appeal to the courts by mandamus; provided, that false swearing in an affidavit hereinabove mentioned, shall be deemed perjury, and liable to punishment as in other cases under existing laws.

**SAME SUBJECT—GRANT OF CERTIFICATES—FEES.**

Sec. 5. (As amended by Act 165, 1914, p. 23.) Be it further enacted, etc., That where the applicant neither furnishes the diploma or affidavit required by the foregoing sections, he shall have the right to registration after having passed a satisfactory examination by the Board of Pharmacy as to his qualifications and capacity, which Board shall thereupon register the applicant, and shall grant to him a certificate of registration as a pharmacist, the same as in the case of the production of a diploma or affidavit as hereinbefore provided. The Board of Pharmacy may grant certificates of registration to licentiates of such other state boards, or the duly constituted authorities of other countries, without further examination. The Board of Pharmacy shall have the right to exact and collect from applicants, before issuance of a certificate fifteen dollars (\$15.00) for an examination of the applicant. No apprentice or employee in any pharmacy or drug store shall be required or permitted to work more than seventy hours per week on a two weeks basis, provided, that nothing in this section prohibits the working overtime any week for the purpose of making a shorter succeeding week; provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and forty (140) hours. The hours shall be so arranged that an employee shall be entitled and shall receive at least one full day in two consecutive weeks.

**APPOINTMENT OF BOARD OF PHARMACY.**

Sec. 6. Be it further enacted, etc., That the Governor shall appoint the board of pharmacy, consisting of nine (9) reputable practicing pharmacists, doing business in this state, who shall serve for four (4) years from the date of their appointment; any vacancy shall be filled for the unexpired term by the Governor's appointment. Said board shall elect a president, and an officer to be known as the secretary and treasurer, and in addition to its duties in holding examinations and granting certificates, it shall report to the prosecuting officer of the State of Louisiana all persons violating the provisions of this act; it shall report annually to the Governor of the State upon the condition of pharmacy in the State, any recommendations for the improvement of its practice, as well as a record of the proceedings of the board during the year; and the names of all pharmacists duly registered under this act, and the fees collected under the provisions of this act shall be applied to the payment of the expenses of the board, in such manner as it shall direct.

**LABELS REQUIRED—PRESCRIPTIONS—POISONS, ETC.**

Sec. 7. Be it further enacted, etc., That all pharmacists, druggists or apothecaries, shall label all bottles, vials, jars, boxes, parcels, packages or other receptacles, or coverings, or wrappings of drugs, medicines or chemicals sold or dispensed by them with a label in legible writing or printed letters, giving the name of the proprietor of the store, the name of the physician prescribing, or shop and the place of sale of said drug, medicine or chemical; and in case the medicine, drug or chemical be of a nature poisonous to the human system or to animals, said label shall have printed thereon a skull and cross bones, with the word "Poison" in large, heavy lettering. All prescriptions shall have in addition thereto a number, the name of the person actually and personally compounding the same, the directions for its use internally or externally, and the date of its compounding.

**VIOLATIONS—PENALTIES.**

Sec. 8. (As amended by Act 165, 1914, p. 283.) Be it further enacted, etc., That any person offending against any provisions of this Act, shall be deemed guilty of a misdemeanor against the State of Louisiana, and shall be prosecuted before any court of criminal jurisdiction, and if adjudged guilty shall pay a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and in default of payment thereof shall be imprisoned in the parish jail for not more than thirty (30) days. All fines recovered from violations of any provisions of this act shall be paid to the Louisiana State Board of Pharmacy, to assist in the maintenance of said Board, and it is hereby made the duty of each parish and municipal treasurer or other official to pay said fines monthly to the secretary-treasurer of the State Board of Pharmacy. The secretary of said Board of Pharmacy shall furnish to the State Board of Health the names of the successful applicants of each examination and also furnish the State Board of Health annually a list of registered pharmacists and qualified assistants registered in Louisiana.

**WHEN ACT BECOMES EFFECTIVE.**

Sec. 9. Be it further enacted, etc., That this act shall take effect thirty (30) days after its promulgation.

Note. The Board of Pharmacy properly established its domicile in the city of New Orleans, and a suit brought in the Parish of Acadia based on a citation served on the President of the Board in the Parish of Iberville, was properly dismissed for want of jurisdiction. State ex rel. Martin vs. State Board of Pharmacy, 106 L. 535. The resolution of the Board could not abrogate the law, nor will a subsequent amendment of the act, adopting the course advocated in the resolution, have the retroactive effect of depriving an applicant for registry of his rights as they existed under the act before amendment. The court maintained its appellate jurisdiction saying "while the relator does not in his petition make any averment as to the value of the right of registry to him, it abundantly appears from the evidence, that the same is worth more than two thousand dollars. State ex rel. Monnier vs. Board, 110 L. 99. The act is not unconstitutional as violating Const. Art. 29, 46, 1 and 8 of the State Constitution and the fourteenth amendment of the Constitution of the United States. State vs. Kumpfert, 115 L. 950. State vs. Fowler, 50 A. 1358. A member of an official body is not liable in damages to one who may have been injured by the body, which acted in good faith and within the jurisdiction conferred on it by law. Monnier vs. Godbold, 116 L. 165.

The charge of one dollar imposed on every registered pharmacist and qualified assistant for the renewal of his certificate, is not a license tax, but a charge imposed for carrying out the police regulation. DeGruy vs. Louisiana State Board of Pharmacy, 141 L. 896. See Ballard, Sheriff vs. Goldsby, 142 L. 15.

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**PHYSICIANS.**

[R. S., Secs. 2677 to 2681.] No one to practice medicine without making affidavit that he has received degree of M. D. Before whom it shall be made. Penalty for failure to do so. Where fines go, etc. All superseded by subsequent legislation the last act being Act 56, 1914, printed infra.

[R. S., Secs. 2682, 2683.] Licenses they shall pay. Superseded by acts printed under title "Taxation."

[R. S., Secs. 2684, 2685.] University of Louisiana has authority to confer literary honors, Bachelor at Law and Doctor of Medicine. R. S., Secs. 1359, 1360, title "Education."

**PRACTICE OF MEDICINE, SURGERY AND MIDWIFERY.****Act 56 of 1914, p. 139.****TITLE.**

AN ACT to regulate the practice of medicine, surgery and midwifery, in the State of Louisiana, to create State Boards of Medical Examiners and provide for the method of appointment of members thereof and to regulate the fees and emoluments thereof; to prevent the practice of medicine, surgery and midwifery by unauthorized persons; to provide for the trial and punishment of violators of the provisions of this act by fine and imprisonment, or both; to provide for the enforcement of this act by civil process, through injunction and by penalties; to regulate examinations to be held under this act and to authorize State Boards in certain cases to waive said examinations; to provide for the registry of certificates issued under the provisions of this act and for publication of the list of registered physicians of this State and regulating the effect thereof; to authorize said Boards to grant certain powers to the members thereof; to regulate the expenditures and revenues of said Boards; to authorize said Boards to take proceedings for the revocation of the permit to practice medicine or midwifery and to enumerate the grounds on which such proceedings may be instituted; to define the practice of medicine in this State; to provide for exemptions from the operation of this act; and to provide that prosecutions pending under existing laws on the subject matter of the same shall not be affected by the passage of this act.

**ONLY PERSONS QUALIFIED MAY PRACTICE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That from and after the promulgation of this act, no person excepting those already engaged under existing laws in the practice of medicine, surgery, midwifery, osteopathy, and dentistry, shall practice medicine in any of its departments within the State of Louisiana, unless such person shall possess all the qualifications required by this act.

**QUALIFICATION OF PRACTITIONER.**

Sec. 2. (As amended by Act 54, 1918.) Be it further enacted, etc. That after the promulgation of this act, any person before entering upon the practice of medicine in any of its branches shall present to one of the Boards of Medical Examiners as herein constituted, a diploma from a college in good standing, of any sect teaching medicine or the healing art, and shall stand a satisfactory examination before the board upon the following branches, to-wit: Anatomy, Physiology, Chemistry, Physical Diagnosis, Pathology and Bacteriology, Hygiene, Surgery, Theory and Practice of Medicine, Materia Medica, Obstetrics and Gynecology. The person shall also satisfy the Board that he or she is twenty-one years of age, a citizen of the United States, of good moral character, and possesses a fair education; Provided however that the Board may issue a temporary permit to one who has taken out his or her first naturalization papers and who has otherwise complied with the requirements of this Act. If said diploma and examination are satisfactory to said Board, they shall issue to such person a certificate in accordance with the facts. Said Board, however, is authorized at its discretion, to waive said examination in favor of any applicant who shall present to the Board a satisfactory certificate of examination from a Board of Medical Examiners of another State; provided, however, that said Board created under this Act shall have found said certificate of examination from a Board of Medical Examiners of another State was received on the equivalent of "Class A College standard American Medical Association"; the said Board created under this Act to be the sole judge as to the sufficiency of all other certificates required.

**COMPOSITION OF BOARD OF MEDICAL EXAMINERS.**

Sec. 3. Be it further enacted, etc., That the medical examiners herein provided for shall consist of two boards—one of physicians and surgeons

recommended by the Louisiana State Medical Society, which Board shall be known as the Louisiana State Board of Medical Examiners, and one of physicians and surgeons recommended by the Hahnemann Medical Association of Louisiana, which shall be known as the Louisiana Homeopathic State Board of Medical Examiners. There shall be five members of each board, any three of whom shall constitute a quorum for all purposes including holding of examinations and granting certificates. All the members of both boards shall be graduate physicians and practitioners.

The Board composed of physicians and surgeons recommended by the Louisiana State Medical Society shall examine all applicants who propose to practice any other than the homeopathic system of medicine, and the board composed of physicians and surgeons recommended by the Hahnemann Medical Association of Louisiana shall examine all applicants who propose to practice the homeopathic system of medicine. The certificate of either Board shall be conclusive proof of the efficiency of the applicant examined by said Board. All examinations held by the Boards and the answers of the applicants shall be in writing, and shall be kept as records for a period of two years. All members of said Board shall be appointed by the Governor of the State from lists of names presented by the Louisiana State Medical Society and the Hahnemann Medical Association of Louisiana, respectively, and the Governor shall have the right to remove any or all of the members thereof for inefficiency or neglect of duty, and to fill all vacancies occurring in these boards from names recommended by their respective societies, provided that the present members of each of the State Boards shall continue in office until the end of their present respective terms and until their successors shall have been appointed.

#### **APPOINTMENT OF GOVERNOR.**

Sec. 4. Be it further enacted, etc., That at the expiration of the respective terms of the present members of the Boards of Medical Examiners under existing laws and thereafter, each member of the Boards of Medical Examiners shall be appointed by the Governor for the term of six years.

#### **EXAMINATION OF MIDWIVES.**

Sec. 5. (As amended by Act 54, 1918.) Be it further enacted, etc., That all persons beginning the practice of midwifery in this State after the passage of this Act shall appear before the Louisiana State Board of Medical Examiners and submit to such examination in midwifery as the Board shall require, and shall pay to the said Board for such examination, the sum of \$10.00. If such examination is satisfactory the Board shall issue a certificate. Fees and methods for the recordation and renewal of certificate shall be as provided for by Section 9 of this Act. This section does not apply to persons attending in "an emergency", a woman in childbirth; such persons in the sense of this Act are not considered as practicing midwifery as a profession.

#### **RULES OF BOARD—OFFICERS, ETC.**

Sec. 6. (As amended by Act 54, 1918.) Be it further enacted, etc., That each Board of Medical Examiners is authorized to select such officers and frame and adopt such Rules and By-Laws as may be necessary for the efficient operation of such Board. The Louisiana State Board of Medical Examiners may provide that the examination required in Section 5 of said Act, as a prerequisite to the practice of midwifery may be conducted by one member of said Board of Examiners, and the certificate of satisfactory examination, annually renewed, issued by such member shall entitle the holder to be authorized by the President and Secretary of said Board to practice midwifery in this State; and may also provide that any member of said Board may make any affidavit necessary to the issuance of any injunction or other legal process authorized under this Act. Each Board shall have its seal and the President and Secretary of the respective Boards shall be empowered to administer oaths in the taking of testimony upon any matters appertaining to the duties of said Board.

**MEETINGS OF BOARDS.**

Sec. 7. Be it further enacted, etc., That the regular meetings of the boards shall be held at least twice in each year in the City of New Orleans, but a special meeting of either Board may be called by the President thereof, anywhere in the State whenever a majority of such board, or its President, may deem it expedient; the call to be issued by the Secretary.

**TEMPORARY PERMITS.**

Sec. 8. (As amended by Act 54, 1918.) Be it further enacted, etc., That to prevent delay and inconvenience, one member of a board of medical examiners may grant a permit to any applicant after a satisfactory examination, and shall report thereon immediately to the Secretary; such temporary permit shall not continue in force longer than until the next regular meeting of the Boards, and shall in no case be granted in violation of any rule of said boards.

**RECORDING OF CERTIFICATE.**

Sec. 9. (As amended by Act 54, 1918.) Be it further enacted, etc., That every person must, before he or she begins practice in this State, personally cause his or her certificate, received under this Act, to be recorded with the Clerk of the Court in the Parish or Parishes in which he or she desires to practice. The Clerk of Court shall make this recordation in a book to be kept for that purpose only and shall also certify to such recordation by an endorsement of the certificate, and he shall be entitled to a fee of \$1.00. Until such recordation is made the holder of such certificate shall not exercise any of the rights or privileges therein conferred. Every certificate issued through this Act shall be renewed annually on or before January 1st by the Secretary-Treasurer of the Louisiana State Board of Medical Examiners, and any certificate not renewed, after unanimous vote by said Board, is suspended; which suspension is subject to review by a court of competent jurisdiction. Method and causes of revocation of certificates are provided for in Section 16 of the amended Act. Upon notification from the Secretary-Treasurer of the Louisiana State Board of Medical Examiners of such suspension or revocation, the said Clerk of Court must cancel said recordation aforesaid. The Secretary-Treasurer of said State Board of Medical Examiners shall be empowered to charge and collect from legal holders of certificate a fee for annual renewal of certificate, said fee not to exceed the sum of \$2.00, which fee is to be deposited in the general fund of the Louisiana State Board of Medical Examiners.

**PUBLICATION OF LIST OF PRACTITIONER.**

Sec. 10. (As amended by Act 54, 1918.) Be it further enacted, etc., That it shall be the duty of the Louisiana State Board of Medical Examiners to publish annually a list of the names and residence of legal holders of original or renewed certificates issued under this Act; and such published list shall be received in evidence by the Courts of this State as proof that the individuals named are duly registered as required by Law, and the said Board may strike from said list the name of any person whose certificate may have been suspended or revoked as herein provided for. The Secretary of the said Louisiana State Board of Medical Examiners shall furnish the State Board of Health and the Internal Revenue Department with the names of the successful applicants to whom certificates are issued; and also furnish the State Board of Health and Internal Revenue Department annually a published list.

**FEE OF MEDICAL EXAMINERS.**

Sec. 11. (As amended by Act 54, 1918.) Be it further enacted, etc., That the members of said Board of Medical Examiners shall receive as a compensation for their services ten dollars (\$10.00) per day during their session and, in addition thereto, their hotel and traveling expenses by the most direct route to and from their respective places of residence, to be paid out of any moneys in the treasury of the Boards upon the certificates

of the President and Secretary. The Boards are empowered to demand a fee for the issuing of each certificate not to exceed two dollars. The fee for examination shall be twenty-five dollars (\$25.00). The fee for temporary permits shall be ten dollars (\$10.00), to be paid into the treasury of the Boards, said fee to be credited to the applicant when he applies to the Boards for a permanent certificate.

**VENDORS OF NOSTRUMS, ETC., FINES.**

Sec. 12. Be it further enacted, etc., That any itinerant vendor of any drug, nostrum, ointment or application of any kind, intended for the treatment of disease or injury, or who may by writing, print or other methods, profess to cure or treat disease or deformity by any drug, nostrum, manipulation, or other expedient in this State, shall if found guilty, be fined in any sum not less than twenty dollars (\$20) and not exceeding one hundred dollars (\$100.90) for each offense, to be recovered in an action of debt, before any court of competent jurisdiction, or shall be imprisoned for a term of not less than ten (10) days or more than thirty (30) days, or be both fined and imprisoned.

**DEFINITION OF TERMS.**

Sec. 13. (As amended by Act 54, 1918.) Be it further enacted, etc., That the term practice of medicine, surgery, midwifery as used in this Act is hereby defined to mean holding ones self to the public as being engaged defect, ailment, or injury in any human being other than himself; whether by the use of any drug, instrument or force, or relieving any bodily or mental disease, condition, infirmity, within this State in the business of diagnosing, treating, curing, whether physical or psychic, or of what other nature, or any other agency or means; or who shall examine any such person or material from such person for such purpose; whether such drug, instrument, force, or other agency or means is to be applied or used by the patient or by another person, or be for compensation of any kind or be gratuitous, or attending a woman in childbirth without the aid of a licensed physician, surgeon or midwife; or using any other title than optician, to indicate that one is engaged in the business of refracting or fitting glasses to the human eye.

If any person, (officer, agent, employee or member of any corporation, association, or partnership) who does not possess or shall not have recorded a license to practice medicine, surgery or midwifery on human beings within this State as herein above mentioned as constituting the practice of medicine, he or she shall be deemed to be practicing medicine without complying with the provisions of this Act and in violation thereof.

**INJUNCTION PROHIBITING PRACTICE OF MEDICINE.**

Sec. 14. Be it further enacted, etc., That said Louisiana State Board of Medical Examiners through its proper officer, may cause to issue in any competent court a writ of injunction forbidding and enjoining any person from practicing medicine in any of its departments in this State, until he shall have first obtained the certificate or permit herein provided for and under the provisions of this Act; and said injunction shall not be subject to being released upon bond.

In the same suit in which said injunction may be applied for, the said Board through its President aforesaid, may sue for and demand of the defendant a penalty not to exceed one hundred dollars, and in addition thereto attorney's fees not to exceed fifty dollars, besides the costs of court; judgment for which penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction may be made absolute.

The trial of said proceeding by injunction shall be summary, and be tried by the Judge without intervention of a jury.

**PRACTICING WITHOUT CERTIFICATE OR PERMIT—PENALTY.**

Sec. 15. Be it further enacted, etc., That any person practicing medicine or midwifery in any of its departments in this State without first having obtained the certificates or permit herein provided for or contrary to the provisions of this Act, shall be deemed guilty of a misdemeanor, and

upon conviction thereof shall be punished by a fine of not less than \$50.00 or more than \$100.00, or by imprisonment in the parish jail for a period of not less than ten days, or more than ninety days, or by both fine and imprisonment for each offense. It shall be the duty of the respective District Attorneys to prosecute violators of the provisions of this Act, before any court of competent jurisdiction. The said fine shall be divided equally between the public school fund of the parish in which said offense may have been prosecuted, and the State Board of Medical Examiners.

#### **POWERS OF BOARD REVOCATION OF CERTIFICATE.**

Sec. 16. (As amended by Act 54 of 1918.) Be it further enacted, etc., That the Louisiana State Board of Medical Examiners shall have the power to refuse to grant, or may suspend, any certificate issued through this Act for causes hereinafter enumerated or similar reasons: Said Board shall have the power to institute proceedings for the purpose of having the certificate or permit held by any person licensed through this act revoked. The court shall have the power to revoke a certificate or permit for the following causes:

1. Conviction of a crime.
2. Fraud, deceit or perjury in obtaining a diploma or certificate.
3. Habitual drunkenness.
4. Habitual use of morphine, opium, cocaine or other drugs having similar effect.
5. Prescribing of cocaine, morphine or other habit forming drugs in other than a legal or legitimate manner.
6. Procuring, aiding or abetting in procuring an abortion unless such is done for the relief of a woman whose life appears in peril after due consultation with another licensed physician.
7. Advertising means or medicine whereby monthly periods can be regulated or re-established.
8. Advertising special ability to treat or cure chronic or manifestly incurable disease.
9. Efforts to deceive or defraud the public.
10. Impersonation of another licensed practitioner.
11. Incompetence.
12. Having professional connection with or lending one's name to an illegal practitioner, or having any professional connection with any person convicted under the provision of this section.
13. Employing solicitors or subsidizing agencies, or paying or presenting any person money or anything of value for the purpose of securing patients.
14. Persistent violation of Federal and State Law relative to control of social diseases.
15. Persons interdicted by due process of law.
16. Violation of any provisions of this act.

Any certificate revoked may be reinstated at the discretion of the Board.

#### **FAILURE TO COMPLY WITH ACT—JURY DUTY.**

Sec. 17. Be it further enacted, etc., That any practitioner of medicine, in any of its departments, failing to comply with the requirements of this act, shall not be exempt from jury or military duty, nor be permitted to collect any fees or charges for services rendered, nor be allowed to testify as a medical or surgical expert in any court in this State, nor execute any certificates as a physician or surgeon, nor to hold any medical office, nor to be recognized by the State or parish or municipal corporation as a physician or surgeon; nor shall he be entitled to enjoy any of the privileges, rights or exemptions granted to physicians or surgeons by the laws of this State.

#### **TO WHOM ACT IS NOT APPLICABLE.**

Sec. 18. (As amended by Act 54, 1918.) Be it further enacted, etc., That this Act shall not apply to any commissioned surgeon of the United

States Army, Navy or Public Health Service, practicing in the discharge of his official duty as such; to physicians, surgeons of other States or territories in actual consultation with a registered physician of this State.

**Sec. 19.** Be it further enacted, etc., That the said boards shall report to the prosecuting officer of the State of Louisiana all persons violating the provisions of this Act. They shall report, annually, to the Governor of this State upon the condition of the practice of medicine in the State, its recommendations for the improvement of the practice, as well as a record of the proceedings of the Board during the year, together with the names of all physicians or surgeons to whom the said Board shall have issued certificates during the year, in accordance with the provisions of Section 2 of this act.

**REVENUES, EXPENDITURES, OBLIGATIONS OF STATE.**

**Sec. 20.** Be it further enacted, etc., That it shall not be lawful for the said Boards of Medical Examiners or any member thereof, in any manner whatever or for any purpose, to charge or obligate the State of Louisiana for the payment of any money except as provided for in Act 44 of the Acts of 1882, relative to the publication of registered physicians, etc., and the said Boards shall look alone to the revenue derived from the operation of this Act for the compensation designated in Section 11 of this Act. And if said revenue is not sufficient to pay each member in full, as per Section 11, then the amount thus received shall be pro-rated among the members. But if at the end of the year there should be a greater revenue derived than sufficient to defray the expenses of the Boards at all their sessions for the year, as provided in Section 7, such surplus may be used by said Boards in such other expenditures as they may deem necessary. The said Boards of Medical Examiners shall have the right to employ counsel to carry out the provisions of this Act, and that the fees of such counsel and the cost for all proceedings taken under the provisions of this Act, except the criminal prosecutions, shall be payable exclusively out of the revenues, including penalties under the provisions of this Act.

**ACTS TO WHICH LAW IS NOT APPLICABLE.**

**Sec. 21.** (As amended by Act 54, 1918.) Be it further enacted, etc., That this law shall not apply to the giving of family remedies in cases of emergency, or to legally licensed dentists, pharmacists, osteopaths, practicing according to existing laws; or to any one attending in an emergency a woman in childbirth; or to anyone serving full time without salary or professional fees on the resident medical staff of any legally incorporated municipal or state hospital or asylum; nor to prohibit the practice of Christian Science or religious rules or ceremonies as a form of religious worship, devotion or healing; provided that the person administering or making use of or assisting or prescribing such rely on faith and prayer alone, and do not prescribe or administer drugs or medicine, nor perform surgical or physical operations, nor assume the title of, or hold themselves out to be, physicians or surgeons.

**ACTS NOT REPEALED.**

**Sec. 22.** Be it further enacted, etc., That no acts or parts of acts shall be considered repealed by this Act unless same are contrary to or in conflict with this Act.

**Sec. 23.** Be it further enacted, etc., That this Act shall not apply to offenses committed prior to the adoption hereof, but all such offenses shall be prosecuted and punished as is now provided by such laws.

**TO WHAT CONDUCT ACT IS NOT APPLICABLE.**

**Sec. 24.** Be it further enacted, etc., That in the event that any provision or part of this Act shall be questioned in any court and shall be held to be invalid, the remainder of this Act shall not be invalid, but shall remain in full force and effect.

**WHEN ACT GOES INTO EFFECT.**

**Sec. 25.** Be it further enacted, etc., That this Act will take effect from and after the date of its passage.

**Note.** The previous act on the subject is Act 49, 1884, p. 55, amended as follows:

Sec. 2 by Act 244, 1908, p. 361.

Sec. 5 " 16, 1912, p. 22.

Sec. 6 " 244, 1908, p. 361.

Sec. 7 " 81, 1896, p. 114.

Sec. 10 " 95, 1908, p. 137.

Sec. 11 " 16, 1912, p. 22.

Sec. 13 " 244, 1908, p. 361.

Sec. 14 " 13, 1896, p. 13, 1908, p. 361 and 16, 1912, p. 22.

Sec. 15 " 244, 1908, p. 361.

Sec. 19 " 13, 1896, p. 13, 244, 1908, p. 361.

Sec. 20 " 244, 1908, p. 361.

The Act of 1884 is not printed, though Secs. 22, 23 of the Act of 1914, perhaps leaves some of the provisions operative, at least for the time being.

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**PILOTS.**

[R. S., Secs. 2686 to 2688.] Qualification of Pilots, Board of Examiners, Bonds, etc. All superseded by Act 99, 1880, printed at page 1568.

**[Duty of Pilot to Board Ship When Called On, Etc.]**

[R. S., Sec. 2689.] Whenever any Branch Pilot shall, when practicable, refuse or neglect to go on board of any ship or vessel, when called by signal, or otherwise, he shall be suspended from his duties as Pilot for the term of five years, and shall, moreover, be liable to be fined in the sum of three hundred dollars; in default of payment thereof he shall suffer imprisonment for the term of three months.

**[Pay for Extra Services to Vessels in Distress.]**

[R. S., Sec. 2690.] The master or owner of any ship or vessel, appearing in distress and in want of a Pilot on the coast, shall pay unto any such Branch Pilot who shall have exerted himself for the preservation of such ship, or vessel, such sum for extra service as the said owner or master and Pilot can agree upon; Provided, said Pilot boards said ship or vessel off Pilot ground. In case no such agreement can be made, the Master and Wardens, or any three of them, shall determine what is a reasonable reward, which the Pilot shall be entitled to collect.

**[Dutie of Board of Examiners.]**

[R. S., Sec. 2691.] Any Commissioners and members of the Board of Examiners neglecting or refusing to perform their duties as such, may, upon written complaint and statement, signed by an absolute majority of the duly commissioned Branch Pilots, of their causes of complaint, be removed from said office of Commissioner or dismissed, and his place filled by the Governor.

[R. S., Sec. 2692.] Carrying Pilots to Sea, superseded by Act 99, 1880, printed at page 1568.

[How Long Pilots Must Remain on Board.]

[R. S., Sec. 2693.] It shall be the duty of a Pilot, when going on board of any outward bound ship or vessel at the boarding stations, to remain on board such ship or vessel until she crosses the bar, unless permission is given by the master for said Pilot to absent himself from said ship or vessel.

[Signal of Pilot Boats When Cruising.]

[R. S., Sec. 2694.] Pilot boats, when cruising, shall be required to exhibit from sunset to sunrise, from the foremast-head, a bright white light, visible all around the horizon for a distance of five miles, and exhibit a flare-up light on deck, mid-ships, every fifteen minutes. They shall also exhibit, from sunrise to sunset, a blue-peter from the main topmast head; this shall not apply to any boats that have boarded out all their pilots. All pilot boats at the mouth of the Mississippi river shall cruise seaward on a radius of five nautical miles from the several entrances to said river.

[Pilots Must Board Vessels from Boats at Station.]

[R. S., Sec. 2695.] No Pilot shall board any inward bound vessel, for the purpose of piloting such in, except from the pilot boats on their stations; any Pilot boarding any inward bound vessel in a small boat from the shore, not belonging or attached to the pilot boats, for the purpose of piloting such vessel in, shall be subject to a fine of one hundred dollars, to be sued for by the Master and Wardens, by a civil process, before any court of competent jurisdiction; and said fine, when collected, shall be paid to the Charity Hospital of New Orleans for its use and benefit.

[R. S., Sec. 2696.] Leave of absence, superseded by Act 88, 1890, printed at page 1568.

[Pilots Must Exhibit License When Required.]

[R. S., Sec. 2697.] Every person offering to pilot a ship or other vessel shall, if required, exhibit to the commander of the ship or vessel his license as Branch Pilot, and upon his refusing or neglecting to do so when demanded, he shall not be entitled to any remuneration for any service he may render as Pilot.

[Incompetency of Bar Pilots; Trial; Suspension, Etc.]

[R. S., Sec. 2698.] (As amended by Act 55, 1908, p. 61.) It shall be the duty of the Board of Examiners of the Port of New Orleans to report to the Governor any neglect of duty, drunkenness, carelessness, habitual intemperance, incompetency, general bad conduct on the part of any branch pilot, or the soliciting of other business or employment whilst on vessels for himself or others, which is hereby forbidden, thus showing that said branch

pilot ought to be removed or suspended, and it shall be the duty of the Governor, if, upon due inquiry, such report be well founded, to revoke or suspend the commission of said branch pilot; provided, that whenever charges of the above nature, and especially charges of carelessness or incompetency in connection with damage caused to or by the ship of which the pilot had charge shall be made, that the investigation of such charges shall be made by the Board of Examiners of the Port of New Orleans sitting with the Commissioners of the Port of New Orleans, the two bodies together to constitute the investigating body which shall jointly report the result of their investigations to the Governor, together with their recommendations.

**[Accusations Against Pilots.]**

**[R. S., Sec. 2699.]** The master of any vessel having cause to complain of the misconduct of any pilot whilst on duty on board of said vessel, may go before the Master and Wardens of the port of New Orleans, and on statement made upon oath of the cause of his complaint, it shall be the duty of said Master and Wardens to forthwith transmit a copy of the same to the Governor who, if he deem it proper shall cause a thorough investigation to be had of the said causes of complaint by the Board of Examiners, and upon revision, approval or rejection of their award, the Governor may either acquit, remove, or suspend the pilot so accused.

**[R. S., Sec. 2700.]** Master and Wardens shall not be interested in Pilot Boat, etc. R. S., Sec. 2220, title "Master and Wardens."

**[Member of Bar Pilots.]**

**[R. S., Sec. 2701.]** (As amended by Act 55, 1908, p. 61.) The number of Bar Pilots for the Port of New Orleans shall not be less than twenty-five (25).

**[Pilots Must Own Boats.]**

**[R. S., Sec. 2702.]** Every Branch Pilot of the port of New Orleans shall be owner or part owner of at least one decked pilot boat, of not less than fifty tons burthen, and he shall keep such boat exclusively employed as a pilot boat. Every Branch Pilot, not owning and employing a pilot boat as aforesaid, shall be suspended from his office by the Master and Wardens of the port of New Orleans, and report the case to the Governor, who may withdraw the commission or license of such Branch Pilot.

**[Fees of Bar Pilots.]**

**[R. S., Sec. 2703.]** (As amended by Act 55, 1908, p. 61.) The Bar Pilots for the Port of New Orleans shall be entitled to ask and receive pilotage at the rate of three and fifty one hundredths dollars (\$3.50) per foot of water drawn by any ship or

vessel piloted by them, drawing ten (10) feet of water, or less, and four dollars (\$4.00) per foot for all vessels drawing more than ten (10) feet of water up to eighteen (18) feet of water; vessels drawing more than eighteen (18) feet of water to pay at the same rate as vessels drawing eighteen (18) feet and no more.

Vessels of one hundred (100) tons or under, lawfully engaged in the coasting trade of the United States shall not be required to take a pilot, unless the master of said vessel demands the services of a pilot.

*Note.* The law does not forbid branch pilots of the Port of New Orleans from entering into a contract of co-partnership relating to their business and the performance of their duties. Levine et al. vs. Michel, 35 A. 1121.

[**Taverns, Ets., at Belize Prohibited Except on License.]**

[R. S., Sec. 2704.] No license shall be granted to any person to keep a tavern, grog shop, billiard house or any house of public entertainment, at the Belize, South West Pass or any other station for Pilots, nor within three miles from such station, unless the person applying for such license shall be recommended in writing by a majority of the Branch Pilots. Any person keeping any public house as aforesaid, at any of the places aforesaid, without a license, shall pay a fine of twenty-five dollars for each and every week such a house shall be kept, and, moreover, be obliged to shut up or remove such public house. Nothing in this section shall be so construed as to exonerate persons keeping public houses without licenses from the fines or other penalties decreed by the parish regulations.

[**Masters of Vessels to Employ Only Licensed Branch Pilots.]**

[R. S., Sec. 2705.] If any vessel, inward or outward bound, to or from the port of New Orleans, shall employ as a Pilot a person who is not a duly licensed Branch Pilot, when a duly licensed Branch Pilot offers, the said vessel, her captain and owners, shall forfeit the sum of one hundred dollars, with privilege on said vessel, to be recovered before any court of competent jurisdiction, in the name of the Charity Hospital of New Orleans for the benefit of the Hospital.

*Note.* See State ex rel. Board vs. Monroe, Judge, 39 A. 664.

[**All Vessels Required to Pay Charges; Privilege on Vessel for Same.]**

[R. S., Sec. 2706.] (As amended by Act 55, 1908, p. 61.) All vessels inward or outward bound to or from the Port of New Orleans, except those mentioned in Section 2703, refusing to take a branch pilot when one offered, shall be liable to the branch pilot thus offering for pilotage recoverable with privilege on said vessel before any court of competent jurisdiction.

*Note.* The punishment of a violation of the State law on the subject of pilots is within the jurisdiction of the State courts; since Congress has not acted upon the subject. Until then the State law is supreme and its courts are not affected by any order or regulation of a Federal officer or an injunction of a Federal Court directed against the parties charged with investigating the prosecution in the State Court. State ex rel. Williams vs. Livodais, 38 A. 122.

**[Associations of Pilots Permitted.]**

[R. S., Sec. 2707.] That the duly licensed Branch Pilots of the port of New Orleans may, for the furtherance of their interests, form themselves into one or more voluntary private associations.

**[Meetings of Board of Examiners to Decide on Qualifications.]**

[R. S., Sec. 2708.] (As amended by Act 63 E. S. 1877, p. 103.) The Board of Examiners of Pilots shall meet on the first of May and the first of October of every year, in the city of New Orleans, or such other place as may be designated after thirty days notice in the official journal of the State, where they shall hold an examination, which shall be open to all who wish to attend, to decide upon the qualifications of applicants for the office of branch pilots of the port of New Orleans, and the said Board of Examiners shall issue certificates to all candidates who may pass a satisfactory examination, and who shall present certificates of good character satisfactory to said board.

**[Penalty For Acting as Branch Pilot Without License.]**

Sec. 2. (Act 62 E. S. 1877, p. 103.) That whoever shall be guilty of acting or attempting to act as pilot to any vessel inward or outward bound to and from the Port of New Orleans, who is not a duly licensed branch pilot, shall suffer fine not exceeding the sum of one hundred dollars or imprisonment not exceeding two months, or both, at the discretion of the court.

**[Branch Pilots Bringing Vessel in Have Preference to Pilot Her Out.]**

[R. S., Sec. 2709.] Any branch-pilot piloting any vessel safe from sea, and giving satisfaction shall, have a preference in piloting her out to sea again: Provided, he, or a pilot from the same association, be in readiness and offers his services before the vessel gets below the boarding-station at Pass-à-Loutré, or the pilot-station at the other passes; and this preference shall be granted by the commander of the outward bound vessel, under the penalty of one hundred dollars, recoverable with privilege on the vessel for the benefit of the same parties and in the same manner as provided for by the 2705 section of this act.

**[Privileges Must Be Enforced Within Thirty Days.]**

[R. S., Sec. 2710.] The privileges granted by this act shall expire, unless enforced, within thirty days after the vessel having incurred any of the penalties decreed by this act shall have returned to the port of New Orleans, but in case the said vessel shall have been absent more than one year, these said privileges and rights of action shall be completely extinguished.

Sections seventh, eleventh, thirteenth, fifteenth, sixteenth, nineteenth, twentieth, and twenty-first, of an act relative to pilots,

approved March 13, 1857, and an act entitled "An Act relative to Pilots," approved January, 1859, be and the same are hereby repealed.

[**Board of Examiners—Continuance in Office.]**

[R. S., Sec. 2711.] Upon the passage of this act the Governor shall renew the Board of Examiners, and they shall be continued in office at his discretion and removable at pleasure, the said Board of Examiners being subject to all of the penalties, and possessed of all the privileges enumerated in this act relative to pilots.

[**Appointment of Pilots for Atchafalaya Bay.]**

[R. S., Sec. 2712.] It shall be the duty of the Governor of the State of Louisiana to appoint for the Atchafalaya Bay and River such number of branch pilots as the interests of commerce may demand, and from time to time to increase the same, should an increase be deemed important by him; Provided, That no person shall be appointed until he shall have been examined by the Board of Examiners of said pilots and shall exhibit to the Governor a certificate of competency signed by a majority of said Board.

[**Acting as Pilot When Not Licensed—Penalty.]**

[R. S., Sec. 2713.] Any person or persons not appointed as a branch pilot under the provisions of this act, who shall pilot any ship or vessel when a branch pilot offers his services, shall pay to said branch pilot a fine of thirty dollars for each and every offence, and in default of such payment, such person or persons shall be imprisoned in the parish prison of the parish of St. Mary not less than ten days, nor more than thirty days, and the fine of thirty dollars hereby inflicted shall be and remain as a judgment against the person or persons so offending, until full and final payment, recoverable before any court of competent jurisdiction in the parish of St. Mary.

[**Right of Pilot Bringing Vessel in, to Take Her Out.]**

[R. S., Sec. 2714.] Any pilot piloting any vessel safe from sea, shall have the exclusive right to pilot such vessel outward, Provided, He shall be in readiness, and offer his services before said vessel gets below Deer Island, on the Atchafalaya River, and the captain or owner of any such vessel refusing to employ such pilot as aforesaid, shall pay to the said pilot the same rate of pilotage as though said pilot had piloted said vessel outward.

[**Suspension of Pilots.]**

[R. S., Sec. 2715.] That the Governor may, in his discretion, suspend or remove any branch pilot of said station.

**[Jurisdiction of Court to Enforce Acts.]**

**[R. S., Sec. 2716.]** All the provisions of this act shall be enforced before any court within the parish of St. Mary, having competent jurisdiction of the subject matter.

**[Pilots for Atchafalaya River.]**

**[R. S., Sec. 2717.]** Every Branch Pilot for the Atchafalaya Bay and river shall be owner or part owner of at least one decked pilot boat, of not less than thirty tons burthen, and shall keep her exclusively employed as a pilot boat. The violation of this section shall subject the offender to a penalty of fifty dollars for each offence.

**[Rates of Pilotage for Atchafalaya.]**

**[R. S., Sec. 2718.]** It shall be the duty of the Pilots to pilot when required, all inward bound vessels from outside of what is commonly called "the Point of the Main Reef" to the mouth of the Atchafalaya river, and all outward bound vessels from the mouth of said river to the outside of said reef; and the Pilots shall be entitled to demand and receive four dollars and fifty cents per foot that any vessel may draw under ten feet of water. All vessels refusing a Pilot, other than those within the State of Louisiana, shall pay half pilotage both inward and outward bound; Provided, they shall be spoken by a Branch Pilot, when inward bound, outside of the reef, and all outward bound vessels between Berwick's Bay and the mouth of the Atchafalaya river.

**[Discharge of Ballast in Atchafalaya Bay.]**

**[R. S., Sec., 2719.]** Each and every vessel arriving in the Atchafalaya Bay in less than five fathoms of water, having ballast on board, the master or commander of such vessel shall not discharge any portion of said ballast into said Bay, nor into water near said Bay having a depth of less than five fathoms, and said masters or commanders shall be compelled to discharge the ballast of such vessels at such place or places as shall be designated to them, by the persons who shall hereinafter be appointed to superintend the discharging of the ballast from on board all vessels that may come into the waters of said Bay; and any master, captain or owner of any vessel who shall violate the foregoing provisions as to the manner of discharging ballast, shall be punished by a fine not exceeding five hundred dollars and not less than two hundred dollars.

**[Atchafalaya Pilots as Ballast Masters.]**

**[R. S., Sec. 2720.]** Each of the Branch Pilots of the Atchafalaya Bay and River, and his successor in office shall be ex-officio a ballast master, whose duty it shall be to carry into effect the provisions of this Act, in relation to the discharging of ballast in the waters of said bay and river; and should either of said Pi-

lots refuse or neglect to perform the services imposed on him by the provisions of this Act, he may be prosecuted every time he may so offend, as for a misdemeanor and shall be punished by a fine not exceeding two hundred and not less than one hundred dollars.

**[Pilots Determine Place to Receive Cargo and Discharge Ballast.]**

[R. S., Sec. 2721.] All of the Branch Pilots or a majority of them, shall immediately after the passage of this Act, have a meeting and determine upon a suitable place or places, where all vessels which may hereafter receive their cargoes or a part of them in said bay, shall be required to discharge their ballast, and said Pilots shall mark out by stakes the place or places which they may select for such purpose.

**[Sailing Vessels, Duties of Pilots, Compensation.]**

[R. S., Sec. 2722.] Hereafter every sailing vessel coming in from sea to said bay, for the purpose of receiving her cargo or part of it, in said bay, shall take one of said Pilots on board when he offers his services outside of the reefs; that it shall be the duty of said pilot to examine whether said vessel has any ballast on board of her, and when ballast shall be found in said vessel, she shall be conducted by said Pilot to the place selected for the discharging of ballast, where the captain or master of said vessel must discharge his ballast, but if such vessel has no ballast on board, she shall be conducted by said Pilot to the usual anchorage, and for the performance of said services of piloting and as ballast master, said Pilot shall be paid by the captain or master of said vessel, a compensation of two dollars per foot, for every foot such vessel may draw at the time when she was boarded by said Pilot.

**[Discharge of Ballast.]**

[R. S., Sec. 2723.] All vessels which may hereafter come into said bay, with the intention and do actually go into the Atchafalaya River, shall not be required to discharge their ballast in said bay, but must discharge their ballast on the banks of said river, or on the banks of some of the bayous connected with said river; but should any of the captains or masters of such vessels, in contravention of the provisions of this Act, discharge the ballast of such vessels in the bed of said river or in the waters of said bay, having a depth of less than five fathoms, such captain or master shall be fined in a sum not more than five hundred nor less than two hundred dollars; provided, that nothing in this Act is intended to conflict with the provisions of an Act entitled "An Act relative to Pilots," approved March 15, 1855, except the twenty-first section of said Act which is hereby repealed.

**[Proceedings Against Masters, Owners, Pilots.]**

**[R. S., Sec. 2724.]** Whenever any person shall make complaint under oath to any Justice of the Peace, that the captain, master or owner of any vessel, or that some one of said Pilots has violated any of the provisions of this Act, which are declared to be punishable by fine, it shall be the duty of said Justice of the Peace to cause the person thus complained of to be brought before him by legal process, and should the officer be satisfied, from the evidence, that there is a probable cause of said complaint, said Justice of the Peace shall take a bond, with good security from said accused person, in the sum of six hundred dollars, for his appearance at the next regular term of the District Court of the parish where the offence may be committed, and should said accused party refuse or neglect, or fail from any cause whatsoever to give such a bond, then it shall be the duty of said Justice of the Peace to commit said accused to the parish prison to be detained therein until discharged by due course of law.

**[Disposition of Fines.]**

**[R. S., Sec. 2725.]** All fines and forfeitures arising from the administration of the penal clauses of this Act, after deducting the fees of District Attorney, be paid into the Treasury of the parish where the offence may be committed, for the use and benefit of said parish.

**REGULATION OF SYSTEM OF PILOTAGE; EXAMINERS,  
ETC.**

**Act 99 of 1880, p. 26.**

**TITLE.**

AN ACT to regulate the system of pilotage of the ports of the State; to define the qualifications of pilots, and to define the duties of the Board of Examiners, and to provide for the appointment of pilots.

**REPORT OF BOARD OF EXAMINERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the Board of Examiners to report to the Governor any and all vacancies occurring by death, resignation or otherwise in the number of pilots of the State, and also to call a meeting of the Board of Examiners for the examination of applicants to fill such vacancy.

**QUALIFICATIONS FOR PILOT.**

Sec. 2. (As amended by Act 26, 1910, p. 41.) Be it further enacted, etc., That no person shall hereafter be appointed a pilot for the entrance of the Mississippi River unless he be a duly qualified elector of the State of Louisiana, and shall have actually served in a pilot boat at the mouth of the Mississippi River for a space of at least twelve months next preceding the date of his application and shall have been recommended to the Governor of the State by the Board of Examiners as being duly qualified as a branch pilot of New Orleans.

Written notice of such recommendation shall be given by said Board of Examiners to the President of the Board of Commissioners of the Port of New Orleans, the President of the Board of Trade of New Orleans, and

the President of the Board of Underwriters of New Orleans. If they, or any two of them, have any objection to the appointment, they shall, within five days from the receipt of said notice, file with the Governor a written protest against the appointment, setting forth all objections to the applicant, which protest shall be considered and passed upon by the Governor, who shall thereupon appoint or decline to appoint said applicant.

**BOND OF PILOT.**

Sec. 3. Be it further enacted, etc., That every branch pilot, in order to entitle him to act as such, shall give bond to the State, with two sufficient sureties, residents in New Orleans, in the sum of two thousand dollars (\$2,000), subject to the approval of the master and wardens of the Port of New Orleans.

**COMPENSATION OF PILOT WHEN CARRIED TO SEA.**

Sec. 4. Be it further enacted, etc., That if any outgoing vessel shall carry off to sea, through the fault of the master or owner of such vessel, any pilot, when a boat is attending to receive him, the master and owners of such vessels shall pay, besides the pilotage, to the pilot, the same monthly wages, during the passage of such vessel, as the chief mate is receiving, and said master or owner shall likewise pay said pilot's passage home, on the first vessel clearing for this port or for the nearest port convenient to it.

**PILOT LEAVING STATION.**

Sec. 5. Be it further enacted, etc., That no branch pilot shall be allowed to leave his station for more than seven (7) consecutive days, unless he shall have obtained leave of absence from the Governor of the State, upon the written recommendation of the Board of Examiners, under penalty of fifty dollars (\$50), recoverable before any court of competent jurisdiction.

**APPOINTMENT OF EXAMINERS.**

Sec. 6. (As amended by Act 109, 1894, p. 143.) Be it further enacted, etc., That the Governor shall appoint a board of three examiners who shall be men of practical experience, who shall hold office for four years or until their successors are appointed and qualified. Said examiners shall perform their duties without compensation. They shall recommend to the Governor for appointment by him one or more persons whom they may deem competent to fulfill the duties of pilots for Calcasieu Bar, Pass and River. Said Board of Examiners shall make such rules for the regulations of pilots and masters and owners of vessels, plying in the waters of Calcasieu Bar, Pass and River, as they may deem necessary, and fix the rate of pilotage over the Bar, and in the Pass and River, but no pilotage shall be compulsory. When rates are established by said Board of Examiners, and published for thirty days in any newspaper in the Parish of Calcasieu or Cameron, they shall be in full force and effect, and binding on all pilots and masters and owners of vessels plying in said waters. All of the provisions of this act and the rules of the Board of Examiners shall be enforced by any court of competent jurisdiction in the parishes of Calcasieu and Cameron, as the case may be.

**BOARD OF RIVER PORT PILOT COMMISSIONERS, ETC.**

**Act 54 of 1908, p. 57.**

**TITLE.**

AN ACT to regulate the river port pilotage of the Port of New Orleans; providing for a board of river port pilot commissioners and defining its duties; providing the qualifications of river port pilots and fixing their charges; providing penalties for violations of this Act.

**BOARD OF RIVER PORT PILOT COMMISSIONERS CREATED; GOVERNOR TO APPOINT MEMBERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Governor shall appoint, by and with the advice and consent of the Senate, three (3) citizens who shall form the Board of River Port Pilot Commissioners for the Port of New Orleans. The first commissioners shall be appointed from those pilots who have for at least one year immediately preceding the passage of this act, exercised the functions of river pilots, from the head of the Passes to the Port of New Orleans upon sea-going vessels; and thereafter said appointments shall be exclusively made from river port pilots, by virtue of this act commissioned. The Governor, in appointing said commissioners, shall designate the president of the Board. Said commissioners shall be removable by the Governor for cause, and shall qualify by taking an oath of office.

**TWENTY-EIGHT RIVER PILOTS TO BE APPOINTED.**

Sec. 2. Be it further enacted, etc., That there shall be a body of pilots known as "River Port Pilots," whose duty it shall be to pilot sea-going vessels from the head of the Passes opposite Pilot Town, to the Port of New Orleans and return. There shall be twenty-eight (28) such pilots, appointed and commissioned by the Governor immediately upon the promulgation of this act.

**PILOTS TO BE SELECTED FROM THOSE NOW SO ENGAGED.**

Sec. 3. Be it further enacted, etc., That the first twenty-eight (28) river port pilots hereinbefore provided for in Section 2 shall be appointed by the Governor from those pilots who have been actively and continuously engaged for one year previous to the passage of this act in piloting sea-going vessels from the head of the Passes to the Port of New Orleans and return, and thereafter there shall not be less than twenty such pilots.

**ADDITIONAL PILOTS MAY BE APPOINTED AFTER EXAMINATION BY BOARD.**

Sec. 4. Be it further enacted, etc., That whenever there exists a necessity for more pilots among the river port pilots, the said Board of River Port Pilot Commissioners shall hold examinations, under such rules and regulations, and with such requirements as they shall have provided, with the Governor's approval; provided that no applicant shall be considered by said Board unless he submits proper evidence of moral character and is a voter of this State, and shall have served six months' apprenticeship in his proposed calling, and upon the certificate of the Board to the Governor that the applicant has complied with the provisions of this act, the Governor may, in his discretion, appoint to existing vacancies.

**OATH AND BOND OF PILOTS.**

Sec. 5. Be it further enacted, etc., That all of said river port pilots shall take an oath of office, and furnish bond to the extent of One Thousand (\$1,000.00) Dollars, approved by the Board of Commissioners of the Port of New Orleans.

**PILOTS MAY FORM ASSOCIATION.**

Sec. 6. Be it further enacted, etc., That said river port pilots may form themselves into an association or associations, as to them may seem fit, not in conflict with law or the rules and regulations of the River Port Pilot Commissioners.

Sec. 7. (As amended by Act 9, 1918.) Be it further enacted, etc., That said River Port Pilots shall be entitled to ask and receive a pilotage fee of Two (\$2.00) Dollars per foot of water drawn by vessels piloted by them up or down the Mississippi River.

This charge shall be paid by every vessel subject to pilotage entering and leaving the Port of New Orleans, provided that should any vessel have

a draft of less than ten feet the pilotage charge shall be Twenty Dollars. When pilot services are timely offered and refused, said vessel shall pay said charges.

That said river port pilots shall be entitled to demand and receive from every vessel subject to pilotage entering or leaving this port an additional charge of Five (\$5.00) Dollars per day for every day she may be detained at quarantine station; provided, said pilots be detained on board his vessel. Said pilotage fee and said additional charge of Five (\$5.00) Dollars per day shall bear as a lien upon the vessel, which lien shall prescribe within one year, should the said vessel return to Port of New Orleans within said time.

Vessels of one hundred (100) tons or under, lawfully engaged in the coastwise trade of the United States, shall not be required to take a pilot, unless the master of such vessel demand pilot service.

**INCOMPETENCY OF PILOTS; HOW TRIED.**

Sec. 8. Be it further enacted, etc., That it shall be the duty of the Board of River Port Pilot Commissioners to report immediately all cases of incompetency, carelessness, especially charges of carelessness or incompetency in connection with damages caused to or by the ship of which the pilot had charge, neglect of duty, habitual drunkenness and gross violations of its rules to the Governor, who, thereupon, shall refer same for investigation and report to said Board, together with the Commissioners of the Port of New Orleans, and the said Board of Pilot Commissioners and the said Commissioners of the Port of New Orleans shall jointly sit as investigators, who shall report their findings to the Governor, recommending a penalty. Whereupon, he may remove, suspend or reprimand in his discretion.

Any one attempting to exercise the functions herein vested in river port pilots, who has not been commissioned by the Governor, shall be fined not less than twenty-five (\$25.00) dollars, nor more than two hundred (\$200.00) dollars, or imprisoned not less than thirty (30) days nor more than four months, or both, at the discretion of the court in whose jurisdiction the offense is committed.

**SOLICITING BUSINESS PROHIBITED.**

Sec. 9. Be it further enacted, etc., That no river port pilot shall solicit from the masters, officers, crew or passengers of any vessel piloted by him, business or employment of any kind or nature whatsoever, for himself or for any other person. It shall be the duty of the Governor, if upon due inquiry it shall appear that any river port pilot has violated the provisions of this section, to revoke or suspend the commission of said river port pilot.

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**PLEADING AND PRACTICE.**

**Act 300 of 1914, p. 611.**

**TITLE.**

**AN ACT** to re-enact and amend Act 157 of 1912, entitled "An Act to further regulate the pleadings and practices in civil causes other than appeals from Justice of the Peace courts in the District Court of this State.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in the conduct of civil causes in the District Courts of this State other than appeals from Justice of the Peace Courts, the following rules of practice shall be observed and enforced, towit:

**PLAINTIFF TO STATE MATERIAL FACTS IN SEPARATE PARAGRAPH.**

First. The plaintiff in his petition shall state his cause of action articulately, that is to say, he shall, so far as practical, state each of the material facts upon which he bases his claim for relief in a separate paragraph, separately numbered. The petition shall be in all cases verified as hereinafter provided.

**EXISTING RULES OF PRACTICE NOT EFFECTIVE.**

Second. The defendant, in his answers, shall either admit or deny specifically each material allegation or fact contained in plaintiff's petition; provided, that nothing in this Act contained shall be construed as affecting in any way the existing rules of practice in regard to what defenses must be specially pleaded by a defendant.

The denial by the defendant in such case may be based upon lack of sufficient information to justify a belief in regard to the allegation in question, but in such case the denial must be expressly so qualified.

The answer, both as to the admission or denials, of the allegations of the petition, and as to allegation of new matter, shall, in all cases, be verified as hereinafter provided.

Third. All material allegations of fact contained in the petition which are not denied in the answer shall be deemed to be admitted.

**MATERIAL ALLEGATIONS DEEMED TO BE TAKEN AS TRUE.**

Fourth. At any time after the answer is filed the plaintiff may by rule submit to the Court the question of his right to a judgment upon the petition and answer. For the purpose of the trial of such rule all material allegations of fact contained in the petition and not denied in the answer, and all allegations of fact contained in the answer, shall be deemed and taken as true; provided, however, that this proceeding by rule for judgment on the petition and answer shall not lie in any case in which there may be a demand in warranty by the defendant, or in which there has been filed a petition of intervention, or a third opposition, unless the state of the pleadings be such as to justify a judgment at the same time upon the demand in warranty, the petition of intervention, or the third opposition, as the case may be.

Note.—The words "each material allegation or fact" should read "each material allegation of fact." The denial of an allegation of fact is the equivalent of a denial of the facts alleged. The statute permits but does not require the defendant to make affirmative allegations in his answer. Defenses that must be specially pleaded in order to avail the defendant are governed by the rules of practice which obtained before the adoption of the act. (Other matters of pleading under the act are discussed.) *Newspaper Feature Service vs. Southern Pub. Co.*, 140 La. 702. The allegation of indebtedness is merely a statement of the pleader's conclusion of law resulting from the facts stated. Admission of the facts does not mean an admission also of the conclusion reached. *Suc. of McLain*, 141 La. 375. See also *Atlas Oil Co. vs. Standard Oil Co. of La.*, 142 La. 601. In *State ex rel. Long vs. Mixon*, 142 La. 714, the Court said, p. 715: "The defendant's answer to the suit did not conform with the requirements of Section 1 of Act 300 of 1914. \* \* \* However, having considered the case on its merits, we have concluded to rest our judgment on the evidence, rather than on the defendant's error in pleading."

**COURT TO RENDER JUDGMENT.**

If, upon the consideration of the petition and answer as above provided, the Court shall be of the opinion that the plaintiff is entitled to a judgment, it shall proceed to render and sign such judgment in the same manner and form and with the same effect as if a trial had been had upon evidence regularly adduced, and such judgment shall constitute for all purpose a definitive judgment; provided, that if such judgment so rendered be for less than the amount claimed by the plaintiff, jurisdiction of the cause shall be retained in so far as the balance is concerned; and, provided further, that in no such case, if the answer sets forth a legal cause of action by way of reconventional demand and is properly verified, shall the plaintiff be entitled in any event to a judgment for more than the difference between the amount found to be due the plaintiff and the amount of the

reconventional demand, and in any such case, jurisdiction of the cause shall be retained by the Court as regards the balance of the plaintiff's claim and the defendant's reconventional demand.

**NO APPEAL FROM JUDGMENT DISMISSING RULE.**

If, upon consideration of the petition and answer, as above provided, the Court shall be of the opinion that the plaintiff is not entitled to judgment, it shall dismiss the rule, and the fixing and trial of the cause shall be proceeded with in the same manner and form as if such rule had not been taken.

No appeal shall lie from such judgment dismissing such rule.

**PLEADINGS TO BE VERIFIED BY PLAINTIFF OR DEFENDANT.**

Fifth. The petition or answer, as the case may be, shall be verified by the plaintiff or the defendant, if a natural person or a member of the firm, if a partnership, or in the case of a corporation, by the President, Vice-President or other managing officer thereof; provided, however:

(a) The joint petition or answer of several plaintiffs or defendants may be verified by any one of said joint plaintiffs or defendants.

The verification in the case of parties shall consist in an affidavit to the effect that all of the allegations of fact made in the petition or answer are true, except as to those allegations expressly made on information and belief, and that as to these, the affiant believes them to be true.

**ATTORNEY MAY VERIFY.**

(b) The petition or answer may be verified by the attorney of the party or parties in all cases.

**WANT OF VERIFICATION BY EXCEPTION IN LIMINE LITIS.**

Want of verification or defective verification must be taken advantage of, if at all, in the case of a petition by exemption filed in limine litis, and in all such cases the Court may in its discretion allow the verification to be supplied or amended upon terms as to the payment of costs, or otherwise, as it may deem proper.

In the case of an answer, such want of verification, or defective verification, may be taken advantage of in those cases in which such rules will lie as hereinabove provided, by the filing within ten judicial days after the answer shall have been made, of a rule for judgment on the petition and answer as hereinabove provided, upon the trial of which, if it appear to the Court that the answer is not verified or is defectively verified, all of the allegations of fact made in plaintiff's petition shall be deemed and taken as true, and all allegations of new matter made in the answer shall be deemed and treated as not written; or said want of verification, or of defective verification in case of answers, shall be grounds for motion to strike the pleading from the files, said motion to be filed within ten judicial days after the filing of the answer; provided, that in every such case the Court may in its discretion allow the verification to be supplied or amended upon such terms as to the payment of costs, or otherwise as it may deem proper.

**VERIFICATION BY ATTORNEY.**

A verification by the attorney of a party or parties for a reason deemed by the Court insufficient to justify such form of verification shall not be treated as a defective verification, but the Court shall in such case require pleading to be verified by the proper party within a delay to be fixed by the Court, and such verification shall be retroactive in its effect, provided that this paragraph shall in no way vary or affect the foregoing paragraph as to the conclusiveness or verification when made by counsel in the cause.

**CERTIFICATE OF COUNSEL MUST ACCOMPANY EXCEPTION.**

Sixth. Every exception which may be filed in advance of the filing of an answer shall be accompanied by a certificate of the counsel filing the

same, to the effect that it is filed in good faith and not merely for the purpose of delay; and in the case of every such exception involving matters of fact, the same must also be verified as to such matters of fact in the manner and form hereinabove prescribed for the verification of petition and answers. Unless accompanied by the certificate of counsel aforesaid, no such exception shall have any effect as a defense or to prevent the taking in regular course of a judgment by default; and in the case of exceptions involving matters of fact, unless same be verified as above provided, they shall be overruled as a matter of course; provided, that in such case, the Court may in discretion allow the verification to be supplied or amended upon such terms as to the payment of costs, or otherwise, as it may deem proper.

**ALL RULES APPLICABLE TO INTERVENTION, ETC.**

Seventh. All of the rules of practice hereinabove prescribed in regard to petitions and answers and exceptions thereto shall apply, so far as practicable, to petitions of intervention and of third opposition and to demands in warranty and to exceptions and answers thereto.

**REPEALING CLAUSE.**

Section 2. Be it further enacted, etc., That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

**SERVICE OF CIVIL PROCESS.**

**Act 179 of 1918, p. 334.**

**TITLE.**

AN ACT to regulate the bringing of certain suits, and the service of civil process by sheriffs and constables throughout the State, including notices of seizure, notices to appoint appraisers, demands for bonds of indemnity, and all other papers prepared and issued by sheriffs or constables, and to repeal all laws in conflict therewith, and all laws on the same subject matter.

**HOW PROCESS SHALL BE SERVED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That citations and all other legal process, whether issued by the clerk, the sheriff or the constable, shall be served by the sheriffs and constables throughout the State, as follows:

**INDIVIDUAL.**

(1) If addressed to an individual, the service may be made by handing same to him personally at any place within the parish by the sheriff, or constable, to whom the process has been delivered for service.

**REPRESENTATIVE CAPACITY.**

(2) If addressed to an individual in a representative capacity, whether as Executor, Administrator, Tutor, Curator, Liquidator, Receiver, Agent or other representative capacity, same may be served personally; and in all such cases the citation or other legal process or notices or other papers issued by sheriffs or constables shall be addressed to the party represented, through the representative, stating his capacity, and if the same person represents one or more persons or corporations in a representative capacity there shall be separate process and service for each, except that where the same person is tutor of more than one minor, or the same person has been appointed curator ad hoc to represent two or more defendants, by the same order of appointment, but one service need be made.

Where there is more than one Administrator, Executor, Liquidator, or Receiver, to the same succession, corporation, or partnership, citation or other legal process shall be addressed to all, but may be served only on one.

**MARRIED WOMEN.**

(3) In suits against married women, service shall be made in person, or at her domicile, as in the case of any other person.

**COMMERCIAL PARTNERSHIP.**

(4) Process directed to a commercial partnership, or an ordinary partnership using a firm name, may be made personally upon any member of the partnership wherever found in the parish, or at the office of the partnership upon any member of the partnership, or, in the absence of all the members thereof, upon any employee above the age of sixteen years found at the office of the partnership.

**CORPORATION.**

(5) Service of all legal process on any corporation shall be made in the following manner:

(a) On any officer designated in the charter as authorized to receive service, and upon any director of the corporation, or in the cases mentioned in paragraph (d) of this section, or the agent of the corporation in charge of the affairs of the corporation, at the place other than its domicile. This service may be made on the officer, director or agent wherever found.

(b) In case the officer, director or agent mentioned in paragraph (a) of this section cannot be found, this service may be made upon any other regularly employed officer, agent, or employee of the corporation over eighteen years of age, found in the domiciliary office of the corporation, or in such other office as the corporation may maintain in the parish other than that of its domicile, where suit may be brought in such parish, as provided in paragraph (d) of this section.

(c) In case service cannot be made as provided in either paragraph (a) or (b) of this section, the officer charged with the duties of making the service shall, after diligent effort, make return to court, stating the efforts made by him to secure service and the reasons for his failure so to do, and thereafter the Judge, or, in the event of his absence from the parish, the Clerk shall order service to be made on the Secretary of State, whose duty it shall be forthwith to send by registered mail, addressed to the corporation at its last known domiciliary postoffice address the originals of the papers served upon him, retaining in his office true copies thereof, upon which he shall note the date, manner and other particulars of the service and of the disposition of the originals.

(d) Where the corporation is engaged in business in more than one parish, the venue of the suit shall, at the option of the plaintiff, be in the parish where the cause of action arose, or at the domicile of the corporation if the cause of action results from a trespass or an offense or quasi offense; but if the cause of action results from any other cause the venue of the action shall be in the parish where is or was located the particular office which has supervision of the transaction from which the cause of action arose or at the domicile of the corporation at the option of the plaintiff.

**FOREIGN CORPORATION.**

(6) Service of all legal process on any foreign corporation shall be made as follows:

(a) On any agent, or agents, which the corporation may have designated, in accordance with existing laws, as agent, or agents, for the service of process. This service may be made wherever the agent, or agents, may be found.

(b) If the agent, or agents, mentioned in paragraph (a) of this section cannot be found, then service may be made upon any regularly employed agent or employee of the corporation, over eighteen years old, in any office which the corporation may have established and maintains in this State.

(c) If the corporation, being one required by law to appoint and maintain an agent for service of process has failed so to do, or such agent, if

appointed, cannot be found, and said corporation has not established and maintained an office in the State, the officer charged with the duty of making the service shall, after diligent effort, make return to the court, stating the efforts made by him to secure service, and the reasons for his failure so to do, and thereafter the Judge, or, in the event of his absence from the parish, the Clerk, shall order service to be made on the Secretary of State, whose duty it shall be forthwith to send by registered mail, addressed to the corporation at its last known domiciliary postoffice address, the originals of the papers served upon them, retaining in his office true copies thereof, upon which he shall note the date, the manner and other particulars of the service, and of the disposition of the originals.

(d) here the corporation has established an office in a parish other than that where its agent for service of process resides, the venue of the suit shall, at the option of the plaintiff, be in either the parish where the cause of action arose or in the parish of the residence of the corporation's agent for service of process, if the cause of action result from a trespass or an offense, or quasi offense; but if the cause of action result from any other cause, the venue of the action shall be in the parish where the agent for service of process has his residence, unless the act or transaction from which the cause of action arose was wholly transacted or completed in some other parish where said corporation had and maintained an office.

(e) To facilitate service of process on foreign corporations, the Secretary of State shall, annually, during the month of August, in each year, make and deliver to the clerks of the several District Courts and to the Sheriffs of this State printed certified lists giving in alphabetical order the names of all foreign corporations which have complied with the provisions of this act, or which have appointed agents for service of process in this State, and also the names of such agents and the place, city or town and street designated as their domicile, or residence; and said Clerks and Sheriffs shall note thereon the date of receipt thereof, and shall keep the same for public inspection on file in their offices. For the purpose and to the extent of interrupting prescription, the person or persons so designated on said list, if served with process, shall be conclusively presumed to be an agent or agents for service of process of such corporation until the first day of September of the next succeeding year, any change or revocation of authority by the corporation to the contrary notwithstanding.

(f) In all of the foregoing cases the venue of the suit shall, at the option of the plaintiff, be either at the domicile of the corporation or where it has its main office, or in the parish where the cause of action arose, if it result from a trespass or offense, or quasi offense; but if the cause of action result from any other cause, the venue of the action shall be in the parish where is or was located the particular office which had supervision of the transaction from which the cause of action arose, or at the domicile of the corporation, if the plaintiff so elects.

#### **PUBLIC OFFICER.**

(7) Service addressed to any public, that is, one holding office under the authority of the United States, the State of Louisiana, or any parish, city, town or other municipal subdivision of the State, or any public board created by law or municipal ordinance, shall be made at the office of said officer or official board as fixed by law, ordinance or regulation, upon the chief executive or presiding officer thereof, and, in case of his absence, upon any employee thereof above the age of sixteen years, found in said office.

#### **UNMARRIED WOMEN.**

(8) Service upon unmarried women, or upon emancipated minors, shall be made as upon other individuals.

#### **DOMICILE SERVICE.**

(9) Process addressed to any individual or to any of the persons named in subdivisions 1, 2 and 8 may be made at the domicile of said person, even

though said person should be absent, or conceal himself, or refuse or be unable through sickness or otherwise to appear for service, by leaving same in the hands of any person above the age of sixteen years, residing on the premises; and the sheriff or constable before making such domicile service shall ascertain these facts from the person upon whom service is made, and the return of the service by the sheriff or constable in such cases shall be conclusive, if it be established that the person upon whom service was made actually resided in the house, though the person to whom process was addressed might have been present when the service was made. And all the facts connected with such service shall be set forth in detail in the return of the sheriff or constable, including the name of the person upon whom the service was made; and when such person refuses to give his or her name, the sheriff shall state that fact in his return.

**ON WHOM DOMICILE SERVICE MAY NOT BE MADE.**

(10) Domicile service, as above set forth, may not be made upon commercial or other partnerships, corporations or public officials, unless upon application to the court issuing the process it is established by the oath of the sheriff, constable or otherwise that it is impossible to make service personally or at the office of said partnership, corporation or public officer, owing to his absence therefrom of all employees or representatives; in which case domicile service, as above set forth, may be made upon any member of said partnership, officer or corporation, public officer or executive, or presiding officer of any public board; provided, this paragraph shall not apply to foreign corporations.

**GARNISHMENT.**

(11) Garnishment process addressed to an individual, either in his own name or in a representative capacity, or to any public officer, must be served upon him personally; and as to partnerships and corporations and public boards, must be served personally upon a member of the partnership, or the executive officer of the domestic corporation, or public board, or designated agent of the foreign corporation, if any such can be found; but, upon application and proof to the court that no member of the partnership can be found at its commercial domicile, or elsewhere in the parish, nor the executive officer of the domestic corporation or public board or designated agent of the foreign corporation can be found at the office thereof, or elsewhere in the parish, the court may order garnishment process served in some other form, and when made as ordered shall have the same effect in all respects as personal service. Provided, that if any individual, made garnishee, shall with the purpose of avoiding personal service of garnishment process, conceal or absent himself, then the court, upon application and proper proof, may order service of such garnishment process made in some other manner, with the same effect as if made personally.

**WHERE PERSONS MAY BE SUED.**

(12) Any person engaged in commercial business may be sued and served in all matters connected with said business in the parish where the business is carried on, even though he may have his legal domicile elsewhere, or at his legal domicile, as desired by the party controlling the suit or process; and for the purpose of service upon commercial and ordinary partnerships, ~~they shall be considered as having their domicile where the partnership carries on its business, notwithstanding all or some of the partners may reside elsewhere, and in any of said cases service may be made at the legal domicile of that of the members of the partnership, or of any one of them.~~

**WHERE SERVICE MAY BE MADE.**

(13) In suits which under the law may be brought in parishes other than the legal domicile of the defendant, citation and all other legal process may be served on said defendant in the parish where the suit is brought, if he be personally found therein, or otherwise, as herein provided, or may

be sent by the clerk of the court where the suit is brought, to any other parish in the State where the party may be found, whether the parish of his legal domicile or otherwise, and service made by the sheriff or constable of that parish.

**SERVICE IN OTHER PARISHES.**

(14) When the defendant in any suit or proceeding is absent from the parish of his domicile where the suit is brought or pending, and is in any other parish of the State, service may be made on him wherever found by the sheriff or any constable of that parish to whom the papers may be sent.

**WHEN ABSENT FROM DOMICILE.**

(15) Where the defendant in any suit or proceeding has his legal domicile in the parish where a suit is pending, but has no agent or other legal representative in the parish, and no fixed place of residence, with a person living there competent to receive service of process, and is shown by proof to the court to be in another State, then the court on proper application may appoint a curator ad hoc to represent him, and upon whom service may be made.

**SERVICE AFTER APPEARANCE.**

(16) After suit has been brought and the defendant has appeared, through counsel, service of all other process in the suit, except garnishment process, but including supplemental petitions, should same be allowed by the court, may be accepted, by or service made upon the attorney of record, and the right so to serve shall remain until the attorney shall have formally withdrawn from the case under order of court; and this rule shall also apply to the plaintiff and his attorney after suit filed.

**ACCEPTANCE OF SERVICE.**

(17) All acceptances of service shall be dated, or, if the date should be inadvertently omitted, shall have effect from the date of filing, but no acceptance of service shall affect the legal delays granted by law or by the rules of court.

**RETURN OF SHERIFF AND CONSTABLE.**

(18) The return of the sheriff or constable shall be conclusive, unless directly attached; but the attachment may be by rule in the same proceeding, if before judgment, but after judgment can only be direct action, bat in the same proceeding; and the return, if correct, may be amended at any time before or after judgment, provided proceedings for that purpose are taken contradictorily with the party upon whom it is alleged the service was made, or who is affected thereby; said party to have personal service of any process to correct the return, unless it can be shown, as hereinabove set forth, that personal service cannot be had, in which event the court may direct some other kind of service.

**INMATES OF PUBLIC INSTITUTIONS.**

(19) Inmates of public institutions in the State may be sued at their former domicile, and service of process upon them may be made by the sheriff or any constable of the parish where the institution is situated.

**DIRECTIONS AS TO SERVICE.**

(20) In addition to the rules for service herein provided for, any person either in his individual representative capacity, or any partnership or corporation, domestic or foreign, may by notarial act deposited with the sheriff, or any constable of the parish, provide that service may be made of legal process addressed to him, or it, in some manner different from that herein set forth or upon some person not herein provided for, and when service has been made in that way, it shall be binding upon the parties so directing, and such direction shall remain in force until withdrawn by order of court.

**SERVICE MAY BE MADE BY DEPUTY.**

(21) All process herein required to be served by a sheriff or constable may be served by any deputy, provided that said deputy shall be duly appointed and sworn, and the record of his appointment approved by the court and entered upon the minutes thereof, or otherwise placed on record therein.

**RETURN OF SERVICE.**

(22) Service of all process by any sheriff or constable shall be returned into the court issuing same as soon thereafter as possible, and, in addition thereto, a complete record shall be kept in a book specially provided for that purpose by all sheriffs and constables; and in the event of the loss or destruction of the return, the entries in said book shall be received and recognized in lieu thereof, subject to the same form of attack, and with the right to correct same, both as hereinabove set forth.

**SERVICE ON SECRETARY OF STATE.**

(23) In all cases where service is authorized to be made by any law of the State now existing, or that may hereinafter be enacted, on foreign corporations, through the Secretary of State, said service may be made in person on the Secretary of State, either at the capital of the State or in the parish where the suit is brought, should that officer be there at the time; but if he should be absent from his office at the capital when service is sought to be made there, it may be made upon the Assistant Secretary of State, duly appointed and sworn, with the same effect as if made upon the Secretary of State himself.

**POSTING COPY OF ACT.**

Sec. 2. Be it further enacted, etc., That a printed copy of this law shall at all times be posted in all the courts of this State, including District Courts, City Courts, and Justices of the Peace Courts, and in the offices of the clerks of said courts, and of the sheriffs and consables hereof.

**EFFECT OF ACT.**

Sec. 3. Be it further enacted, etc., That nothing herein contained shall be held to impair or effect proceedings by attachment or proceedings in rem as now authorized by law; but, as far as applicable, any of the proceedings and modes of service herein provided for may be used in such cases.

**EFFECT ON LEGAL DELAYS.**

Sec. 4. Be it further enacted, etc., That nothing in this Act shall affect the delays for answering or for appearing as now provided by law or rules of court.

**WHEN ACT GOES INTO EFFECT.**

Sec. 5. Be it further enacted, etc., That this law shall take effect from and after October 1, 1918, and all laws or parts of laws in conflict herewith, or on the same subject matter, be and the same are hereby repealed.

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**POLICE JURIES.**

[R. S., Sec. 2726.] Power of Police Juries to establish wards, etc., superseded by Act 57, E. S. 1977, printed *infra*.

**[Qualifications of Police Juries.]**

[R. S., Sec. 2727.] (As amended by Act 94, 1894, p. 129.) The members of the Police Juries of the several parishes through-

out the State, hereafter to be elected, shall possess the same qualifications as members of the House of Representatives and also the following additional qualifications:

They shall be able to read and write and shall, each, own in his own right or whose wife shall own in her own right property of an assessed value of at least two hundred and fifty dollars in the parish for which they may be elected.

[R. S., Sec. 2728.] Qualifications of Voters, superseded by Const. Art. 197 et seq.

[R. S., Sec. 2729, 2730.] When elections for Police Juros shall be held, terms of office, superseded by Const. Art. 206, 207, Act 161, 1894, printed infra.

[Authority to Fix Time of Meetings.]

[R. S., Sec. 2731.] They shall have the power to fix the periods of their respective regular meetings, and to meet at any other time which they may deem necessary.

[President Must Call Special Meetings When Requested.]

[R. S., Sec. 2732.] The President of the several police juries shall be obliged to call a meeting of the police jury whenever he shall be thereto required by twelve inhabitants, free holders.

Note.—A police jury may meet in special session when it is deemed necessary, upon the call of the president or otherwise, notice of meeting being given to the members. Dupuy et al. vs. Police Jury, 115 La. 578.

[Clerks of Court May Convene Police Jury When Office of President Is Vacant.]

[R. S., Sec. 2733.] The clerks of the district courts of the different parishes of this State are empowered to convene the police juries of their respective parishes whenever there is a vacancy in the office of president, in the same manner and for the reasons that the president could himself do.

[Notice of Meeting; When Necessary.]

[R. S., Sec. 2734.] Notice to members shall be necessary only in cases of special meetings.

[Election of President.]

[R. S., Sec. 2735.] That the said police juries shall, at such times as they may think proper, elect the said president from their own body, to serve for one year

[Duties of President.]

[R. S., Sec. 2736.] The duties heretofore imposed on the parish judges by the laws of this State in connection with police juries shall hereafter be performed by the president of said police juries, if not otherwise provided by law.

**[Duty of President to Order Elections to Fill Vacancies.]**

[R. S., Sec. 2737.] It shall be the duty of the president to order elections, to fill all vacancies that may exist in said police juries, giving at least ten days notice of such election by having written or printed notices posted at three places in the ward where said election may be ordered; and in parishes where official newspapers are published, besides the notice above directed to be given, publication thereof shall be made in said newspaper, twice in ten days; said election shall be conducted according to the existing laws regulating elections.

**[Resignation of President.]**

[R. S., Sec. 2738.] That the president of the police jury, when desirous of resigning his seat as a member or president, shall tender his resignation to the police jury.

**[President Pro Tem in Absence of President.]**

[R. S., Sec. 2739.] Whenever the president does not attend, the juries are authorized and required to appoint a president pro tempore, from amongst themselves, who shall have all the powers and perform all the duties required by law of the president.

[R. S., Secs. 2740, 2741, 2742.] Pay of Police Jurors; Presidents neglect of duty; Failure of members to attend, superseded by Act 57, E. S., 1877, printed infra.

**AUTHORITY OF GOVERNOR TO APPOINT ADDITIONAL POLICE JURIES.**

**Act 57 E. S., 1877, p. 87.**

**TITLE.**

AN ACT authorizing the Governor to appoint additional police juries in country parishes; directing police juries to redistrict their respective parishes into police jury wards, and these wards into one or more justice of the peace and election wards, and fixing the number of members, the time and manner of their election, the mode of filling vacancies in the police jury, and vacancies which may hereafter occur; fixing the compensation of police jurors; providing forfeitures for their neglect of duty, and the mode of enforcing the same; repealing Act No. 97, approved April twenty-seven, 1871, entitled "An Act reorganizing the police juries of the State, prescribing the number thereof, and the mode of election, and fixing their duties and compensation."

**AUTHORITY CONFERRED.**

Section 1. Be it enacted by the Senate and House of Representatives, in General Assembly convened, That the Governor of this State is hereby authorized to appoint, by and with the advice of the Senate, in such country parishes as he may see fit, additional police juries not exceeding five, who, with those police jurors elected at the last general election, shall constitute the police jury of the parish until the next general election.

**REDISTRICTING PARISHES.**

Sec. 2. Be it further enacted, etc., That the police jury of each parish shall, on the first Monday of July, 1877, meet at the courthouse of their respective parishes, and shall redistrict their parishes into not less than five nor more than ten police jury wards, as the convenience of the people may require, and shall at the same time district these police jury wards into one or more justice of the peace and election wards, as they may think proper, and shall designate said wards numerically and in consecutive order. When the wards have been thus established, they shall not be changed without a two-thirds vote of the police jury, recorded by yeas and nays.

**ELECTION FOR POLICE JURORS, ETC.**

Sec. 3. Be it further enacted, etc., That the election for police jurors, justices of the peace and constables shall be held in each ward at the same time as the general election, and that police jurors shall be elected by the qualified electors of the police jury wards, and that justices of the peace and constables shall be elected by the qualified electors of the justice of the peace or election wards; and, in order that none but qualified electors of the ward shall vote for ward officers, the officers now charged by existing laws or by any amendment thereto are hereby instructed to provide, at each election poll, a separate box, in which the ballots for ward officers shall be deposited, and the returns of said election shall be made separate from the returns of votes cast for other officers, in the manner required by law.

**ELECTIONS TO FILL VACANCIES.**

Sec. 4. Be it further enacted, etc., That it shall be the duty of the President of the Police Jury to order elections to fill vacancies which may occur in the Police Jury, giving at least ten days' notice of the election by having printed or written notices posted in at least five most public places in different parts of the ward wherein such vacancy may occur, and also by publication in the official newspaper of the parish, if such official newspaper exists in said parish, and the Police Jury shall have the election held according to the provisions of Sec. 3 of this Act.

**COMPENSATION OF POLICE JURORS.**

Sec. 5. (As amended by Act 275, 1914, p. 544.) Be it further enacted, etc., That members of the Police Jury shall be entitled to a compensation to be fixed by them which shall not exceed three dollars per day, and ten cents per mile going to and from the courthouse at their respective parishes for every day they are actually employed in the service of the parish; provided mileage for one trip only shall be charged for each session of the Police Jury, to be paid out of the funds of the several parishes on the warrant of the President. Provided the Police Jurors shall not be paid per diem for more than thirty days in any one year.

The Police Jurors may in this thirty days give at least eleven days of said time to the inspection of roads and bridges.

**PENALTY FOR FAILURE OF PRESIDENT TO PERFORM DUTY.**

Sec. 6. Be it further enacted, etc., That for failure of the President of a Police Jury to perform any of the duties imposed on him by law, without reasonable excuse, he shall forfeit the sum of twenty-five dollars for each failure, to be recovered before any court of competent jurisdiction by motion of the parish attorney, after three days' notice; and for the failure of any member of the Police Jury to attend at any meeting, after being duly notified, or without notice if at a regular session, such member, if he has no reasonable excuse, shall forfeit the sum of ten dollars, to be recovered as above; provided, such forfeitures to be paid into the parish treasury.

**POWER OF POLICE JURORS.**

Sec. 7. Be it further enacted, etc., That the Police Jurors organized under this act shall have all the power and perform all the duties pre-

scribed by the laws of this State in force at the date of the passage of this act, not in conflict herewith.

**REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That so much of Act No. 97 of the General Assembly of this State, approved April 27, 1871, entitled "An act reorganizing the police juries of this State, prescribing the number thereof, and the mode of electing and fixing their duties and compensation, as is in conflict with the provisions of this act, be and the same is hereby repealed.

**WHEN ACT GOES INTO EFFECT.**

Sec. 9. Be it further enacted, etc., That this act take effect from and after the date of its passage, and that its provisions shall not apply to the Parish of Orleans, and all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**ELECTION OF POLICE JURORS.**

**Act 161 of 1894, p. 201.**

**TITLE.**

**AN ACT** authorizing the election of Police Jurors in all the parishes of this State, the parish of Orleans excepted, at the election to be held in eighteen hundred and ninety-six, and thereafter, at each State election, and to fill vacancies.

Section 1. (As amended by Act 196, 1906, p. 349.) Be it enacted by the General Assembly of the State of Louisiana, That for each parish ward there shall be elected, in the manner provided by law, in addition to the police juror to which the ward is entitled, one additional police juror for each ten thousand (10,000) inhabitants which the said ward contains, said apportionment to be based upon the last preceding United States census; also one additional police juror for each additional ten thousand (10,000) inhabitants, or part thereof in excess of seven thousand five hundred (7,500), to be selected from the resident voters of the ward. Provided, that this law shall not apply to parishes having a population of less than 50,000 inhabitants.

**VACANCIES IN OFFICE OF POLICE JURORS—HOW FILLED.**

**Act 59 of 1906, p. 92.**

**TITLE.**

**AN ACT** to provide for the filling of all vacancies occurring in the office of Police Juror, by special election.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever a vacancy shall occur in the office of Police Juror of any parish, by death, resignation, removal, or otherwise, or by failure to qualify of the person elected to said office, such vacancy shall be filled by special election. Such elections shall be ordered by the Governor, to be held within sixty days of the occurrence of such vacancy, under the general election laws of the State.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith, be and the same are hereby repealed.

**NUMBER OF POLICE JURORS.****Act 279 of 1908, p. 412.****TITLE.**

**AN ACT to provide for the number of police jurors to represent wards in parishes (except the Parish of Orleans) having a population of less than fifty thousand inhabitants.**

**PROVIDING THE NUMBER OF POLICE JURORS FOR WARDS IN COUNTRY PARISHES.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in each parish of this State (Parish of Orleans excepted) having a population of less than fifty thousand inhabitants there shall be elected in the manner provided by law, in addition to the police juror to which said ward is entitled, an additional police juror for each five thousand inhabitants which said ward contains; also, one additional police juror for each additional five thousand inhabitants or part thereof in excess of twenty-five hundred inhabitants; said police jurors shall be residents of the ward from which they are elected and shall be elected by the voters of said ward.

**VALIDATING ELECTIONS MADE IN APRIL, 1908.**

**Sec. 2.** Be it further enacted, etc., That in the event that the people of any ward of any parish in this State, having elected at the General State Election, held in April, 1908, police jurors to represent said ward, based on the apportionment fixed according to the population, as is set forth in Section One of this Act, that their said election is hereby declared to be valid, and the said police jurors shall be the police jurors to represent the said ward of said parish from which they have been elected until their successors have been duly elected at the General State Election to be held in April, 1912.

**REPEALING CLAUSE.**

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

**[Power and Authority of Police Juries.]**

**[R. S., Sec. 2743.]** (As amended by Act 202, 1902, p. 391.) The Police Juries shall have power to make all such regulations as they may deem expedient:

First—For their own government.

Second—As to the proportion and direction, the making and repairing of the roads, bridges, causeways, dikes, levees and other highways.

**Note.** The police jury is without authority to actually "trace a line of road;" this should be done "by a jury of freeholders," but the police jury has power to determine "the proportion and direction of the road." *Calder vs. Police Jury*, 44 A.R. 173. It has the power to regulate the direction, the making and the repairing of the roads, bridges, causeways, dikes and levees. *Parish vs. Nalting*, etc. R. R. Co., 44 A.R. 613. It has authority to grant to a private corporation the right to construct, maintain and operate a toll road, and to collect tolls in an amount limited to compensation of the company for the use of the money and for its services. The grant does not violate Const. Arts. 48 and 58 (Const. 1898). *St. Joseph Plank Road Co. vs. Kline*, 104 La. 325. The police jury is, however, without authority to grant a right to construct, own and operate a line of railways over and through the public roads in the parish. *Farmer vs. Miles*, 104 La. 333.

Third—Clearing the banks of rivers and natural drains; for the clearing of the banks of the Mississippi River and all other navigable streams and natural drains for the purpose of secur-

ing a free passage for boats and other water crafts, and for logs and timber; and they shall therefore likewise have power to make all such regulations as they may deem necessary and proper to prevent the introduction into and propagation in all such streams and natural drains of aquatic plants and all other vegetation which can in any manner impede or obstruct navigation of boats and other water craft or the towing of logs and timber, as well as to prevent the passing from one stream to another (though one or both of such streams be not navigable) of all such aquatic plants and vegetation; and they shall have likewise power to pass and make all such penal ordinances as they may deem proper for the punishment by fine or imprisonment or both, of all such persons as may transgress against such regulations as said police juries may pass by virtue of this paragraph.

**Fourth**—As to the form and height of inclosures or fences, whenever they may think proper to require the proprietors to enclose any ground.

**Note.** A police jury has the power to enact a "no fence" law for a particular ward of the parish. To what extent the roving of animals shall be permitted, restrained or suppressed is left to the discretion of the police jury. *Milier vs. Bopp*, 136 La. 788.

**Fifth**—To pass all ordinances and regulations which they shall deem necessary in relation to the marking, the sale, destruction of cattle in general and especially of wild cattle which are not marked; and also of horses and mules; and to take any measure concerning the police of cattle in general in all the cases not provided for by law; to fix the time in which cattle may be suffered to rove in the parishes of this State, where that custom prevails, so that such roving may not be detrimental to the crops; to determine what animals shall not be suffered to rove, and in what cases they may lawfully be killed.

**Note.**—Inspection of cattle. *State vs. Overby*, 142 La. 23. Dipping cattle. *State vs. Malone*, 142 La. 331.

**Sixth**—To regulate the police of taverns and houses of public entertainment and shops for retailing liquor in their respective parishes, and to impose whatever parish tax they may see fit on all keepers of billiard tables and grog shops, and on all hawkers, peddlers and trading boats.

**Note.** The police jury has authority to impose any license tax it may see fit to impose on trading boats trading within the parish. *Parish vs. Bowman*, 30 An. 1403. The payment of State and Parish licenses by a retailer of spirituous liquors does not exempt him from the operation of a police regulation adopted by the police jury, requiring the dealer to close his place of business after certain hours. *State and Police Jury vs. Isabel*, 40 An. 340. See *Cade, Tax Collector, vs. Mitchell*, 51 An. 1494. Where in a general election under Act 76 of 1884 the decision is against the sale of liquors, the police jury is powerless to impose a license; when, however, the voters of a particular town subsequently reverse that decision inssofar as that town is concerned, the police jury may for that town impose a license. *Parish vs. Campbell & Hart*, 106 La. 464. The power to regulate the police of taverns, etc., extends to all measures deemed necessary to prevent violations of regulations, such as offering a reward for evidence to convict offenders. *Carnes et al. vs. Police Jury*, 110 La. 1011. *Luchini vs. Police Jury*, 126 La. 972.

**Seventh**—To determine the quantum of fines against all such as shall transgress their regulations.

**Note.** In the absence of a State law prohibiting traffic, etc., on Sunday, the Legislature is without constitutional authority to delegate authority to a police jury to enact such ordinances and in the name of the State to prosecute the violation of such ordinances as misdemeanors. *State vs. Baum*, 33 An. 981.

**Eighth—To levy such taxes as they may judge necessary to defray the expenses of their respective parishes.**

**Note.** As a general rule, a police jury may not contract a debt or incur an obligation without at the same time providing for its payment; where, however, the parish is involved in serious litigation, a valid contract may be made with counsel to aid the regularly retained attorney for the defense of such suits. The compensation to counsel may fairly be considered a contingent expense. *Talbot vs. Parish of Iberville*, 24 An. 135. Property situated within an incorporated town and the inhabitants thereof are subject to property and license taxes imposed by the police jury, unless specially exempted by the Legislature. *Parish of Iberia vs. Chippella*, 30 An. 1143. Power to employ experienced timber estimators in making assessments. *Haynes vs. Police Jury*, 138 La. 101. The police jury of the Parish of Lafayette is without jurisdiction to impose taxes on property in the town of Lafayette, except such as may be necessary to make, maintain and repair the courthouse and jail, and to pay the city's portion of the criminal expenses. *Billeaud vs. Police Jury*, 141 La. 957.

**Ninth—Note—**This paragraph is identical with R. S., Sec. 1501. As Section 1501, it was amended by Act 132 of 1906, p. 220. Therefore, see R. S., Sec. 1501.

**Note.** The construction of a "pontoon ferry bridge" by a large majority of the patrons of a ferry across a navigable stream is an unlawful infringement of the franchise of the lessee of the ferry privilege. The license to conduct the line is in its nature exclusive, and the police jury has power to prohibit the operation of unlicensed ferries and bridges within competitive distance of the licensed ferry. *Blanchard vs. Abraham*, 115 La. 989. So with a bridge built and maintained by a parish and a town of the parish. The right may be protected by injunction. *Police Jury vs. Robichaux*, 116 La. 286.

**Tenth—To appoint a treasurer for the parish.**

**Note.** The right of the police jury to remove a parish treasurer was not abrogated by Const. 1870, Art. 201. *Richard vs. Rousseau*, 35 An. 933. (Compare Const. 1913, Art. 222.) For removal of the Board of Police Commissioners of New Orleans under Act 63, 1888, Sec. 4, citing the Rousseau case with approval. See *State ex rel. Denis vs. Shakespeare*, 43 An. 92. (Constitutional provisions bearing on the subject are discussed and many cases cited.)

**Eleventh—To appoint all officers necessary to carry into execution the parish regulations, and to remove them from office.**

**Note.** A police jury is without power to deprive itself of the power to remove its employees. A contract for a period of years is void. *Ehret vs. Police Jury*, 136 La. 391.

**Twelfth—To provide for the support of the poor and necessitous within their respective parishes by taxation or otherwise.**

**Thirteenth—To cause to be opened in any town suburb or other place divided into house lots, or when a point of land on the Mississippi or other water course shall be divided among several proprietors, such ancient natural drains as have been obstructed by the owners of the adjacent lands, and to prescribe the mode to be observed in that respect; to cause any water course which is not navigable to be filled up for the purpose of carrying the public highways over the same; provided that no injury be thereby occasioned to the neighboring inhabitants; and whenever an application made by more than twelve (12) inhabitants of a town, suburb or other place divided into house lots, or when a point of land on the Mississippi or other water course shall be divided among several proprietors, it shall be found necessary to dig one or more common draining ditches, the said juries shall have the power to ordain that the said ditches be dug at the expense of the owners of the lots, and that the expenses be borne by a contribution among the owners, to be levied in such manner as the jury shall prescribe; saving to individuals or persons aggrieved the**

**right of complaining for the making or opening of such natural or artificial drainings when unnecessary or hurtful to them.**

**Note.** The police jury had a dam built across an unnavigable stream. After its completion the plaintiff purchased some land in the vicinity, and about six years thereafter claimed that the dam obstructed the natural drainage of his land. He prayed for damages and the removal of the dam. Held that damages would be allowed, though plaintiff purchased with full knowledge of the conditions; but the removal of the dam would not be ordered. *Lalanne vs. Savoy*, 29 An. 516. The police jury is without power to interfere with or obstruct navigation on any navigable water course, by the construction of bridges without drains or by the erection of embankments. *Goodwill vs. Police Jury*, 38 An. 732. The right of the police jury to build a dam across a stream not navigable in order to carry a road across it, is clear, and injunction will issue to prevent threatened interference with the work or its destruction. *Egan vs. Russ*, 30 An. 972. Lands may be entered for the purpose of doing the work necessary to render and keep drains efficient, to remove obstructions, and enlarge systems of drainage. Where new drains are to be cut, the land must be expropriated. *Drainage Dist. vs. Iberia & V. R. Co.*, 124 La. 502.

**Fourteenth**—To adopt such regulations as (*sic*) may think necessary to prevent and punish trespasses committed by hunters on inclosures or lands fenced in; provided, however, that the fines imposed by the said police juries for such offenses, shall, in no case be less than five dollars (\$5.00) nor more than fifty dollars (\$50.00).

**Fifteenth**—To grant permission and to determine the rate of toll to be demanded by persons desiring to build a bridge or make a turnpike road; provided, that in no case whatever the police jury shall grant the right of toll for more than ten (10) years.

**Note.** The police jury has authority to grant to a private corporation the right to construct, maintain and operate a toll road, and to collect tolls in an amount limited to compensation of the company for the service it renders and the use of its money. The grant does not violate Const. Arts. 48, 58 (Const. 1898). *St. Joseph Plank Road Co. vs. Kline*, 106 La. 325.

**Sixteenth**—To enact ordinances and regulations, not inconsistent with the laws and Constitution of the United States, nor of this State, to protect their respective parishes against the introduction of all and every kind of contagious or epidemical diseases.

**Seventeenth**—To sue any person for whose account levees, roads, etc., may have been made or repaired at the expense of the parish, and to obtain the reimbursement of said amount, by privilege on the land subject to the said works.

**Eighteenth**—To appoint parish syndics, and overseers of roads and levees, at any regular meeting, by a majority of the votes present, and whether a quorum be in attendance or not.

**Nineteenth**—To lease to the bidder for the shortest time, not exceeding ten (10) years, any tract of land within the limits of their respective parishes, given by the general government of the State for the use of the schools, and upon which a levee shall be necessary, as will (*sic*) as for its own protection as that of the adjoining lands from inundation; the only consideration of said lease to be making and keeping in repair the necessary levee by the lessee, for the whole term of his lease.

**Note.** See Act 90, 1882, p. 2 et seq., for additional powers of police juries.

#### [Majority Required to Levy Parish Tax.]

**[R. S., Sec. 2744.]** A vote of a majority of all the members elect of police juries shall be required to levy any parish tax, or

to make any appropriation; provided, that in levying parish taxes the police juries shall levy a uniform per centum on every species of property, trade or profession, on which the State assesses a tax.

Nothing in the fifth section of this act shall be so constructed as to prevent police juries in the river parishes from levying a special tax on land for the construction and support of levees.

**[Estimate of Expenditures Before Fixing Assessment.]**

**[R. S., Sec. 2745.]** The police jury of the several parishes of the State, before they shall fix and decide on the amount of taxes to be assessed for the current year, shall cause to be made out an estimate, exhibiting the various items of expenditures required; and cause the same to be published in the official newspaper published of the parish, or in parishes where an official newspaper is not published, then by posting up written statements of said estimates in at least three of the most public places in such parishes, at least thirty days before their meeting to fix and decide on the amount of taxes to be assessed as aforesaid.

Note. The estimate or schedule or statement or budget need not include anything relating to the resources or revenues of the parish. It should be a statement or estimate of the expenditures for a given year; it should state the year for which it was made, and the publication should name the year for which it was adopted. It should be published for thirty days. *Police Jury et al. vs. Bouanchaud & Co. et al.*, 51 An. 866. (The Court indicated the budget should be published several times during the thirty days, but held it was not necessary to decide the point, as the budget was void for other reasons.) A property or license tax levied by a police jury is void, unless it is preceded by a budget or estimate of expenditures adopted and published at least thirty days in advance of the levy. The law is mandatory, and failure of substantial compliance with it strikes the taxing ordinance with nullity. A license tax for the entire year, predicated on a budget for only the first half of the year, is not a compliance with the statute. *Constant, Benjamin & Co. vs. Parish of East Carroll*, 105 La. 286. Failure to object to a license tax, on the ground that it was not preceded by a budget legally adopted and published, must be timely urged. If the tax debtor waits until many taxpayers have paid the levy, and an annulment of the levy would throw the parish finances into confusion, he will be held estopped. *Fuseller vs. St. Landry Parish*, 107 La. 224 (many cases are cited). The law is not substantially complied with when license taxes are fixed at the same time the budget is adopted, although the ad valorem tax ordinance be not adopted until after expiration of thirty days. *Swords vs. Daigle*, 107 La. 510. In the absence of a budget, taxes are not adopted as required, and the sale of property for such taxes is void. *Waggoner vs. Maumus*, 112 La. 229. A budget adopted in November, 1905, warrants the levy of taxes for the succeeding year. The police jury is not required to make out and publish an estimate of expenditures within the same year that it levies taxes to meet them. *Murphy et al. vs. Police Jury*, 118 La. 401 (many cases are cited in the opinion). *Board of School Directors vs. Police Jury*, 123 La. 416. See also *Howcott vs. Smart*, 128 La. 130. *Farmerville Bank vs. Police Jury*, 138 La. 835.

**[Police Jury Must Provide Courthouse.]**

**[R. S., Sec. 2746.]** The police jury of each parish shall be bound to provide a good and sufficient courthouse, with proper rooms for jurors; and also a good and sufficient jail, at such place as they may deem most convenient for the parish at large; provided. That when the seat of justice is established by law, they shall not have the power to remove it.

Note. The lease of a building for a courthouse under an ordinance of the police jury is invalid, unless means for paying the rent are provided in the ordinance. *Destrehan vs. Police Jury*, 31 An. 180. The law contemplated that the police jury should provide a permanent and substantial courthouse; "it did not mean that there should be rented a house nor that there should be built a loghouse nor a frame-house, nor that there should be furnished any other makeshift." *State vs. King*.

109 La. 813. Whether a police jury is acting wisely or unwisely in undertaking to build a new courthouse on a new site, or that it may involve the building of a new jail, is a question which the courts are not competent to consider, as the law vests discretion in such matters in the police jury. *Dupuy vs. Police Jury*, 115 La. 579. *Murphy vs. Police Jury*, 118 La. 401. See also *Board of School Directors vs. McBride*, 138 La. 508.

**[R. S., Secs. 2747 to 2749.]** When money judgment is rendered against a parish, judgment must contain an order to Tax Assessors, etc., to levy tax to pay same, etc., etc. Repealed by Act 56 E. S. 1877, p. 87.

**[R. S., Secs. 2750 to 2755.]** Police Juries authorized to pass ordinances relative to roads, bridges, etc., impose per capita for the purpose, etc. R. S., Sec. 3365 to 3389, title "Roads."

**[R. S., Secs. 2756, 2757.]** Authority to build temporary levees, etc. |R. S. Secs., 3029, 3030, title "Public Roads."

**[R. S., Sec., 2758, 2759.]** Letting Ferries; Streams dividing Parishes, etc. R. S., Secs. 1502, 1503.

**[R. S., Secs. 2760, 2761.]** Police Jury appoints District Attorney. Repealed by Act 44, 1874, p. 81.

**[R. S., Secs 2762, 2763.]** Remission of fines by officer exercising judicial functions; abatement by municipal council or Police Jury prohibited. R. S., Secs. 1070, 1071, title "Criminal Proceedings."

**[R. S., Secs. 2764 to 2769.]** Bonds of Tax Collectors, etc.; approval, etc.; effect of bonds, sureties, etc., etc. R. S. Sec. 351, as amended by Act 11, 1877, p. 15. The amended section contains provisions which supersede the provisions of all these sections.

**[R. S., Secs. 2770, 2771.]** Parish Boundaries; how fixed and determined; preservation of returns of survey. R. S., Secs. 2624, 2625, title "Parishes."

**[R. S., Secs. 2772 to 2775.]** Subscriptions by Police Juries and municipalities to stock of corporations undertaking works of public improvement, etc., etc. R. S., Secs. 711 to 714, title "Corporations."

**[R. S., Secs. 2776, 2777.]** Payment of expenses of criminal proceedings. R. S., Secs. 1042, 1043, title "Criminal Proceedings."

**[R. S., Secs. 2778 to 2780.]** Police Juries and municipal authorities have power to regulate, etc., drinking houses, etc. Relinquishment of right by State. R. S., Secs. 1211 to 1214, title, "Drinking Houses."

**[R. S., Sec. 2781.]** Beneficiary cadets to State Seminary of Learning and Military Academy, etc., etc. R. S., Sec. 1338, title, "Education."

**[R. S., Sec. 2782.]** Parish and city to pay election expenses. Superseded by Act 130, 1916, Secs. 14, 30, printed under title "Elections."

**[R. S., Sec. 2783.]** Suits to which Police Juries or municipalities are parties have preference in Supreme Court. Sec. 35.

**[R. S., Sec. 2784.]** Jurisdiction of Justice of the Peace outside incorporated towns. Superseded by Const. Art. 126.

**[R. S., Secs. 2785 to 2788.]** Municipal corporations prohibited from levying tax on persons engaged in selling articles of their own manufacture, etc. Restrictions on contracting debts. Ordinances creating debts remain in force until debt is discharged. Mode of enforcing payment, etc. R. S., Secs. 2447 to 2450, title "Municipal Corporations."

**[R. S., Secs. 2789, 2790.]** Police Juries, etc., to regulate, etc., jails, appointment of physicians. R. S., Secs. 2834, 2835, title "Prisons."

**[R. S., Sec. 2791.]** Annual report of defaulter by President of Police Juries. R. S., Sec. 1131, title "Defaulter."

**[R. S. Sec. 2792.]** State Collector shall collect parish taxes, etc. Superseded by Act 170, 1898, printed under title "Taxation."

#### **[Bonds of Parish Tax Collectors; How Enforced.]**

**[R. S., Sec. 2793.]** Whenever any person charged with the collection of parish taxes shall fail to pay over the taxes collected by him within thirty days after being required to do so by the Police Jury or other parochial authority, by a written demand served by any Constable of the parish, the Police Jury or other parochial authority shall have the right, on filing in the office of the Clerk of the District Court a certified copy of his bond, and the return of the Constable showing the demand made on him, to obtain from the Clerk an execution against the Collector for the amounts which he may have so collected and failed to pay over, which execution shall have the same force and effect as the distress warrant or execution, when issued by the Auditor, and any property sold under it shall be sold for cash, without the benefit of appraisement.

**[R. S., Secs. 2794 to 2807.]** Police Jury for Parish of Orleans, right bank, abrogated by Act 7, E. S. 1870, p. 30.

### **ENFORCEMENT OF ORDINANCES.**

**Act 315 of 1908, p. 481.**

#### **TITLE.**

AN ACT to authorize the Police Juries of the Parishes to enforce their ordinances by fine and imprisonment, or both, by prosecution by information or bill of indictments, or by process in the Civil Courts of the State.

**POLICE JURIES AUTHORIZED TO ENFORCE ORDINANCES BY FINE AND IMPRISONMENT.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That from and after the passage of this Act the Police Juries of the Parishes shall have full power and authority to enforce such ordinances as they are authorized to pass, by fine or imprisonment, or both, to prosecute by criminal process of indictment or information or by fine or forfeiture to be collected by civil process before any court of competent jurisdiction.

**PENALTIES IMPOSED.**

Sec. 2. Be it further enacted, etc., That no fine shall exceed one hundred dollars and imprisonment shall not exceed thirty days in parish jail, or both, at the discretion of the court.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws in conflict herewith are hereby repealed.

Note. The Constitution does not forbid the Legislature to delegate to police juries the power to enforce their ordinances by process of indictment or information. State vs. Westmoreland, 133 La. 1015. See City of Shreveport vs. Moroun, 134 La. 497. A prosecution for violation of a police jury ordinance is a "criminal case" within the meaning of Art. 109 of the Constitution, conferring original jurisdiction upon the District Courts in all criminal cases. State vs. Togglin, 135 La. 497. See also State vs. Hagen, 136 La. 868.

**ADDITIONAL POWERS OF POLICE JURIES.****Act 90 of 1882, p. 112.****TITLE.**

AN ACT granting certain additional powers to police juries.

**CONTRACT FOR COPYING, INDEXING, ETC.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries throughout the State be and they are hereby authorized and empowered to contract with the lowest bidder for the purpose of making and renewing the indexes of or copying any of the indexes or books of record in the sheriff's or district clerk's and ex-officio recorder's offices in their respective parishes whenever in their opinion the condition of the old ones may require it.

**ADVERTISING CONTRACT.**

Sec. 2. Be it further enacted, etc., That the police juries shall, whenever they may desire to have such work done, advertise in some newspaper published in the parish, or, if none be published in that parish, in some newspaper published in an adjoining parish, for the space of twenty days, in which advertisement they shall mention the nature of the work to be done, and the terms and conditions on which it is to be done, and closing by the request that all persons desirous of bidding for such work send in their bids in writing, under seal, on or before the expiration of the twenty days' advertisement, and that in doing so they comply with all the published conditions.

**REJECTION OF BIDS.**

Sec. 3. Be it further enacted, etc., That the President of the Police Jury may reject any bid made, if the person so bidding be an irresponsible or incompetent or improper person, to do such work, in his estimation, whereupon the Police Jury may, if they see proper, accept the next lowest bidder, or readvertise for further bids on the same terms and conditions as in the first instance; provided, that should, on this second offering, no acceptable bid be made, the Police Jury may then contract with any one it may see proper for the performance of such work.

**BOND OF CONTRACTOR**

**Sec. 4.** Be it further enacted, etc., That any and every person who may be so contracted with by the Police Jury shall give bond with sufficient surety in solido, in such amount as the jury may prescribe, and payable to the President thereof, and which bond shall enure to the benefit of all persons interested, which bond must be approved by said President and be conditioned for the faithful performance of the work undertaken, and to secure all persons interested against any damage that may result to the books and papers of such office from the negligence of or misuse thereof, by the contractor.

**PRIVILEGES TO BE GIVEN CONTRACTOR.**

**Sec. 5.** Be it further enacted, etc., That any person who may be so employed shall be admitted to all the books and papers of the office which may be necessary to enable him to do and perform all the work he may have undertaken, and while engaged in so doing the same he shall be entitled to keep or occupy in such office the desks and tables necessary; provided, that the books and papers shall not be removed from the office, and such person shall so conduct his work as to interfere as little as possible with the recorders and deputies in the performance of their official duties; and provided, further, that such work shall be under the supervision of the recorder.

Note. See R. S., Sec. 2743.

### **POLICE JUROR MUST ABSTAIN, ETC., FROM VOTING WHEN INTERESTED IN CONTRACT.**

#### **Act 200 of 1906, p. 355.**

**TITLE.**

**AN ACT** to make it the duty of every member of any Police Jury or Municipal Council in the State having a personal or private pecuniary interest in the adoption or passage of any ordinance, resolution, motion or measure by the body of which he is a member, to declare such fact to said body and to refrain from voting on the same and to provide for a penalty for the violation of this act.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That every member of any Police Jury or Municipal Council in this State who shall have any personal or private pecuniary interest in the adoption or passage of any ordinance, resolution, motion or measure by the body of which he is a member shall declare such fact to said body, and shall refrain from voting on the same at any time, whether on final passage or otherwise.

**Sec. 2.** Be it further enacted, etc., That any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or imprisoned for not more than sixty days, or both fine and imprisonment, at the discretion of the court.

Note. Act 22, 1898, p. 24, making it unlawful for police juries to draw money from their parish treasuries, other than their per diem and mileage, was declared unconstitutional in *State vs. Bain*, 137 La. 308.

### **SUPPORT OF INFIRM, SICK, ETC., PAUPERS.**

#### **Act 42 of 1880, p. 42.**

**TITLE.**

**AN ACT** to require police juries to make provision for the support of all infirm, sick and disabled paupers residing in their respective parishes.

**DUTY TO PROVIDE FOR INFIRM, SICK, ETC., PAUPERS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of the several police juries through this State to provide for the support of all infirm, sick and disabled paupers residing within the limits of their respective parishes, except such as may reside in municipal corporations, either exempt or partially exempt from parish taxation; that they shall adopt such measures as they may deem just and necessary to ascertain the names, situation and condition of all such, in order that they may provide for the entire support of the utterly destitute and helpless, and for the partial support or assistance of others, according to their circumstances and condition.

**MAY BUY OR LEASE FARM FOR PURPOSE.**

Sec. 2. Be it further enacted, etc., That police juries are authorized to buy or lease a farm or other home for the infirm, sick and disabled paupers residing within their parish, and to make such arrangements and appoint such officials and agents, with such compensation as they may deem necessary, for the proper management thereof, and to make the same wholly or in part self-sustaining.

**ESTABLISHMENT OF FARMS, ETC.**

Sec. 3. Be it further enacted, etc., That if police juries shall establish any farms or manufactories or shall embark in any farming or manufacturing enterprises, to carry out the object of this act, and comply with Article 163 of the Constitution, all such shall be regarded and recognized as public works within the meaning of the law.

**ONLY SICK AND DISABLED PERSONS TO RECEIVE ASSISTANCE.**

Sec. 4. Be it further enacted, etc., That the police juries and parish officials shall not, at the public expense, support or aid any persons as paupers, except such as are infirm, sick or disabled; that the amount to be appropriated as a pauper fund to carry out any or all of the purposes of this act, or under any and all other laws on the subject, shall be included in the estimate required to be made and published by Section 2745 of the Revised Statutes of 1870; that no debt shall be created against the parish beyond the amount appropriated and collected for the purpose with other current parish taxes, and no greater rate of taxation than that allowed by the Constitution shall be levied by any police jury to carry out the object of this act, except for the purposes and in the manner set forth in Article 209 of the Constitution.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**RELIEF FUNDS FOR DESTITUTE PERSONS.**

**Act 235 of 1916, p. 503.**

**TITLE.**

AN ACT providing for a relief fund for poor and destitute persons in cities of not less than 25,000 nor more than 100,000 inhabitants, and in parishes that embrace such cities, by providing that a certain percentage of the fines and forfeitures of the District Courts and Municipal Courts shall be set apart for such purpose; providing that the Police Jury and the City Council shall control such fund, invest the same; providing the maximum amount of said fund and the manner of expending the interest or revenues from said fund.

**TEN PER CENT OF FINES, ETC., FOR RELIEF FUND.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of those parishes of the State which

contain a city of not less than 25,000 nor more than 100,000 inhabitants, shall set aside 10 per cent of all fines and forfeitures of bonds in criminal cases collected by the District Court, for violations of the laws of the State and parish, while holding sessions in such parish, and the said city having a population of not less than 25,000 nor more than 100,000 inhabitants shall likewise set aside 10 per cent of all fines and forfeitures of bonds given in criminal cases, collected in and by the municipal court, which fines have been assessed for the infractions of municipal ordinances, as a fund to care and provide for the poor, indigent and destitute persons of such parish and city.

#### **POLICE JURY TO CONTROL FUND.**

**Sec. 2.** Be it further enacted, etc., That the Police Jury of the Parish shall have the control and management of the funds set apart by the Police Juries in accordance with Section 1 of this Act.

#### **MUNICIPAL COUNCIL IN CITIES.**

**Sec. 3.** Be it further enacted, etc., That the city council of the cities shall have the control and management of the funds set apart as provided by Section 1 of this act.

#### **INVESTMENT FOR ACCOUNT "ALMS FUND"**

**Sec. 4.** Be it further enacted, etc., That the police jury of the parish or city councils of the cities shall have power to draw such sum from its treasury, to invest such sums for the account of the "Alms Fund," in interest bearing bonds of the United States, of the State of Louisiana, and of the bonds, paving certificates or approved obligations of the parish or cities having control of such funds.

#### **WHEN SETTING ASIDE OF PORTION OF FINES, ETC., CEASES.**

**Sec. 5.** Be it further enacted, etc., That after the said fund set apart by the parish under Section 1 of this act shall have reached twenty-five thousand dollars, and the fund set apart by the cities mentioned in Section 1 of this Act shall have reached twenty-five thousand dollars, then and at that time the parish and cities shall thereafter no longer continue to set aside the pro rata part of the fines provided for in Section 1 of this act, but the said funds of twenty-five thousand dollars respectively shall be invested as set forth in Section 4 of this act, and only the yearly interest or revenue shall be expended in carrying out the purpose of this act.

#### **ACCUMULATION OF "ALMS FUND."**

**Sec. 6.** The police jury or the city council of the respective parish or city mentioned in Section 1 of this act may at any time receive funds or property of any character for the benefit of the said "Alms Fund;" provided that the sum of twenty-five thousand dollars (\$25,000), which may be received and accumulated, from whatever sources, shall be retained as a permanent fund, the annual income alone being available for the use and purposes set forth in Section 1 of this act.

#### **TO WHOM AID MAY BE GIVEN.**

**Sec. 7.** Be it further enacted, etc., That the police jury of the parish, and the city council of the city, mentioned in Section 1 of this act, may first use or expend the income from the fund so provided for the poor, indigent and destitute of its particular jurisdiction, but in the event all of the annual revenue of the parish arising from the "Alms Fund" provided by this act is not needed in the parish outside of the city, then and in that event, if the same is needed by the city for its poor, indigent and destitute, the said parish shall pay over to the "Alms Fund" of the city that portion of its yearly revenue not needed by it during that year, and likewise if the city does not expend all of the revenues during any one year arising from its "Alms Fund" provided by this act, it shall pay over

such surplus left over from such year to the "Alms Fund" of the parish, if the poor, indigent and destitute of the parish stand in need of the same.

**JOINT ACTION BY PAROCHIAL AND MUNICIPAL AUTHORITIES.**

Sec. 8. Be it further enacted, etc., That the police jury of the parish and the city council of the city as set forth in Section 1 of this act, may combine their respective "Alms Fund" as a joint affair, and manage and control it in such manner and upon such conditions as the police jury of the parish, and the city council of the city, may agree upon.

**DISBURSEMENT—REPEALING CLAUSE.**

Sec. 9. Be it further enacted, etc., That the police jury of the parish or the city council of the city, acting separately or together, may in their discretion, select one or more duly incorporated and well recognized charitable associations, which must be non-sectarian, to disburse the revenues arising from the respective "Alms Funds" of the parish and city as provided for in Section 1 of this act.

**DISPOSAL OF INTEREST.**

Sec. 10. Be it further enacted, etc., That any interest accruing from the funds of the "Alms Funds" while on deposit or otherwise, shall constitute a part of said fund.

**REPEALING CLAUSE.**

Sec. 11. Be it further enacted, etc., That all laws contrary to and inconsistent herewith are hereby repealed.

**APPROPRIATIONS FOR CHARITY HOSPITALS, ETC.**

**Act 181 of 1912, p. 325.**

**TITLE.**

AN ACT to authorize the police juries of the several parishes of the State under such regulations as they may prescribe to annually appropriate and use from parish funds sums of money not to exceed Three Hundred Dollars, in aid of charity hospitals or other similar institutions of adjoining States when such charity hospitals or institutions are freely used without cost, by the indigent sick or wounded citizens of such parishes.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of this State are hereby authorized, under such regulations as they may prescribe, to annually appropriate and use from parish funds, sums of money not to exceed three hundred dollars in aid of charity hospitals or other similar institutions of adjoining States, when such charity hospitals or other institutions are freely used, without cost, by the indigent sick or wounded citizens of such parishes.

**PAYMENT OF FUNERAL EXPENSES OF PAUPERS.**

**Act 250 of 1908, p. 370.**

**TITLE.**

AN ACT providing for the payment of the actual burial and funeral expenses of paupers, carried on parochial list of paupers and who have died from natural causes, and limiting the amount to be paid by the police juries.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of this State are

hereby authorized, when called upon by the proper authorities to do so, to pay the actual burial and funeral expenses of all paupers carried on the parochial list of paupers and whose deaths have been caused by natural causes.

**Sec. 2.** Be it further enacted, etc., That the amount to be so expended, as provided for in Section 1 of this act, shall not exceed the sum of fifteen dollars (\$15.00) in any one case.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict with this act are hereby repealed.

## HAWKING AND PEDDLING.

**Act 128 of 1900, p. 196.**

### TITLE.

AN ACT authorizing all police juries in the State of Louisiana to pass ordinances and laws regulating and defining the hawking and peddling on foot or otherwise throughout their respective parishes; and authorizing said police juries to punish the violation of said laws and ordinances, by fine or imprisonment and repealing all laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all police juries in the State of Louisiana, are hereby authorized to pass and enact laws and ordinances regulating and defining the hawking and peddling on foot or otherwise in their respective parishes; and said police juries are further authorized to enforce said laws and ordinances by fine or imprisonment.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act, are hereby repealed.

## APPROPRIATION FOR FARMERS' CO-OPERATIVE DEMONSTRATION WORK.

**Act 69 of 1912, p. 81.**

### TITLE.

AN ACT to authorize the police juries of the several parishes under such regulations as they may prescribe to annually appropriate and use from parish funds limited sums of money in aid of the Farmers' Co-operative Demonstration Work in their respective parishes as is now or hereafter may be conducted by the U. S. Department of Agriculture and to conduct such work in their respective parishes, jointly with the agents and representatives of the United States Department of Agriculture upon certain terms and conditions.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of the State, under such regulations as they may prescribe be and are hereby authorized to appropriate and use from parish funds any sum or sums of money not exceeding altogether one thousand dollars per year in aid of the Farmers' Co-operative Demonstration Work in their respective parishes jointly with the agents and representatives of the United States Department of Agriculture, upon such terms and conditions as may be agreed upon between the several police juries and said agents and representatives.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

## **EXPERIMENTAL FARMS.**

**Act 145 of 1912, p. 199.**

### **TITLE.**

AN ACT to empower the police juries of the several parishes of the State to acquire land and with the same establish and maintain experimental farms, under the supervision of the Agricultural Department of the State and the United States, and to arrange for exhibiting the products thereof.

### **PREAMBLE.**

Whereas, the future of Louisiana is indissolubly linked with her agricultural development; and,

Whereas, in the variety and richness of her soils, only intelligent and scientific farming is necessary to constitute Louisiana as one of the foremost agricultural States of the Union; and

Whereas, great uncultivated areas are being left in the wake of the removal of the great forests of Louisiana,

### **MAY ACQUIRE LANDS FOR FARMS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of this State are empowered to acquire the ownership of a tract of land, and when so acquired the title to the same shall rest in the public; provided, however, in those parishes having large areas of different classes of soil are empowered under this act to acquire tracts as aforesaid representative of the several classes of soil that predominate in the particular parish.

### **PARISH EXPERIMENTAL FARMS**

Sec. 2. Be it further enacted, etc., That the tracts of land so acquired are to be constituted Parish Experimental Farms, and the parish is to improve said property so that it may be worked by the parish in accordance with plans to be suggested by the State and United States Agricultural Departments, provided that the police juries of the said parishes may utilize in the working of the same its parish prisoners.

### **PURPOSE FOR WHICH FARMS ARE ESTABLISHED.**

Sec. 3. Be it further enacted, etc., That the parish experimental farms provided for by this act are established for the purpose of demonstrating the possibilities of the soil in the respective parishes, and in every way to disseminate a scientific knowledge of agriculture, and in consequence the work and results so obtained on the parish experimental farms are to be open to the inspection and study of the public at stated times.

### **ANNUAL EXHIBITION OF WORK.**

Sec. 4. Be it further enacted, etc., That with a view of stimulating a friendly rivalry as to the most successful results obtained upon the said parish experimental farms, it is further provided that a selection of the best results of each year's work upon said parish experimental farms may be assembled and exhibited annually at the State Fair in the building owned and set apart by the State as an Agricultural Hall at the State Fair of Louisiana.

### **PROVISIONS IN BUDGETS.**

Sec. 5. Be it further enacted, etc., That the police juries are empowered to make provision in their budgets for the carrying out of this act at the earliest practical time that the finances of each parish will permit.

**AUTHORITY TO SUPPRESS GAMBLING.****Act 183 of 1918, p. 346.****TITLE.**

AN ACT to empower and authorize the police juries of the several parishes of the State, the City of New Orleans and all municipalities excepted, to suppress and prohibit, within their respective parochial limits, gambling with cards by whatsoever name the said card game may be called or known, and to empower and authorize them to pass and adopt such ordinances as may be necessary to carry out the provisions of this act, and to empower and authorize them to provide penalties in said ordinances, and to repeal all laws or parts of laws in conflict herewith.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of the State, the City of New Orleans and all municipalities excepted, be and they are hereby empowered and authorized, with full power, to suppress and prohibit, within their respective parochial limits, gambling with cards, or any card game by whatsoever name the said card game may be called or known, at which money, or anything representing money, or any article of value shall be pledged, bet or hazarded; provided, however, that the provisions hereof shall not apply to any private game played in a private home occupied by a family as such, or game in private clubs, conducted without rake off for gain.

**Sec. 2.** Be it further enacted, etc., That the said police juries are hereby empowered and authorized to pass and adopt all the necessary ordinances, which they may deem needful, to carry out the provisions of this act and to enforce the said ordinances by fine not to exceed five hundred dollars, or imprisonment not to exceed six months, or both at the discretion of the court.

**Sec. 3.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**MAY DEFRAY EXPENSES OF STUDENTS OF AGRICULTURE.****Act 41 of 1918, p. 63.****TITLE.**

AN ACT to empower the police juries of the several parishes to defray the living expenses of young men, residents of Louisiana, who have graduated from any high school of the State or high school of another State of recognized standing, to the number of not more than one at any one time from each ward of the parish, and three from the parish at large who agree and obligate themselves to enter upon the study of agriculture and to pursue such study at the Louisiana State University until they graduate from such University in agriculture and conditioned upon the student and his parents, or tutor, entering into a written contract with the parish sending such student to the university, stipulating that such student will after his graduation in agriculture return to the parish from whence he came, and enter upon the actual practice of the science of agriculture for a period of two years, and providing the recourse of the parish against the student who fails to carry out the provisions of his contract with the parish.

**MAY DEFRAY EXPENSES OF STUDENTS OF AGRICULTURE.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes are empowered to

defray the expenses of young men, residents of Louisiana, who have graduated from any high school of the State or high school of another State of recognized standing, to the number of not more than one from each ward of the parish at any one time, and three from the parish at large who agree and obligate themselves to enter upon the study of agriculture and to pursue such study at the Louisiana State University at Baton Rouge, Louisiana, until they graduate from such university in agriculture.

**CONDITIONS PRECEDENT FOR ADMISSION.**

Sec. 2. Be it further enacted, etc., That as a condition precedent to availing themselves of the provisions of this act, it must be shown to the satisfaction of the police jury that the young man applying for aid under this act is financially unable to educate himself in the course of agriculture and that his relatives are likewise unable to render him the necessary financial aid to enable him to receive such an education.

**FURTHER CONDITIONS PRECEDENT.**

Sec. 3. Be it further enacted, etc., That as a further condition precedent to enable any young man to avail himself of the provisions of this act, that he with his parents or tutor must enter into a contract with the parish, to be prepared by the district attorney, that in consideration of the aid to be rendered him under the provisions of this act, he will oblige himself to pursue his studies in agriculture at the Louisiana State University until his graduation, and that after his graduation he will return to the parish from whence he came and practice the profession of an agriculturist for two years.

**VIOLATIONS OF CONTRACT.**

Sec. 4. Be it further enacted, etc., That if any person who avails himself of the provisions of this act, and violates or breaches his contract by not remaining at the Louisiana State University until his graduation in agriculture; or after having graduated such person fails to practice his profession as an agriculturist in the parish that rendered him aid under the provisions of this act, then such breach shall cause the amount so expended by the parish upon said person to be a debt due and exigible by said person to the parish, and the parish is empowered to bring suit through the district attorney at any time within a period of five years to recover the amount of money so advanced to such person by the parish, provided, that by a two-thirds vote of the membership of the police jury for good reason shown, the penalties provided in this section may be waived and avoided.

**HEDGES AND FENCES.****Act 55 of 1880, p. 53.****TITLE.**

AN ACT empowering police juries to declare hedges and fences made of posts, planks and barbed wire to be lawful, and empowering police juries to authorize the use of the same.

Be it enacted by the General Assembly of the State of Louisiana, That the police juries throughout the State are hereby empowered to declare in their respective parishes that hedges of such height and thickness, and possessing such other requisites as they may establish, and fences constructed with posts and barbed wire, and possessing such other requisites as they may establish, shall be lawful, and said police juries may authorize the use of said hedges and fences throughout their respective parishes, or in certain parts only of the same.

**EXPROPRIATION OF LANDS FOR DONATION TO  
UNITED STATES.**

**Act 16, E. S., 1917, p. 24.**

**TITLE.**

AN ACT authorizing the police juries of the several parishes of the State of Louisiana to expropriate, when necessary, for the purpose of donation to the United States of America such rights of way through lands situated in their respective parishes, as may be needed by the United States for the purpose of constructing, operating and maintaining canals for transportation purposes and for the construction and improvement of the Inland Waterway Channel, known as the "Inter-coastal Canal," and prescribing the manner of expropriation and of donating said rights of way to the United States of America.

**RIGHT OF EXPROPRIATION FOR PURPOSE.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of the State of Louisiana, shall have the authority, whenever in their judgment it is to the manifest interest of the public in general, and in order to facilitate the construction, maintenance and operation of canals, or portions of canals, or a branch of a canal, to be constructed by or under the authority of the United States of America for the purpose of transportation, and for the construction and improvement of the Inland Waterway Channel known as the "Intercoastal Canal," to expropriate rights of way for such canals, when the owner or owners of the lands, in their respective parishes, through which lands said canals are projected and for which such rights of way are needed, shall, from disagreement in price, or any cause whatever refuse to convey said rights of way to the United States of America.

**HOW EXERCISED.**

Sec. 2. Be it further enacted, etc., That the said rights of expropriation shall be exercised in the same manner and by the same proceedings, and under the same limitation now imposed by law on police juries in the expropriation of rights of way for public road purposes.

**ACQUISITION OF TITLE TO STATE.**

Sec. 3. Be it further enacted, etc., That the police juries of the several parishes of the State, upon the acquisition of title to rights of way for the purpose herein mentioned, and in the manner herein prescribed, shall thereupon execute to the United States of America and deliver to their authorized agent, a deed of donation of such rights of way, reciting the proceedings relative to the acquisition of such title, which said deed of donation shall convey to the said United States of America a good and absolute title to the rights of way against all persons whatsoever.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws and parts of laws in conflict with this act are hereby repealed.

Note. See Act 18, 1871. Relinquishment of title to lands to United States for sites of light stations on the coast and waters of this State. Printed under title "United States."

**RESURVEY OF TOWNSHIP, ETC., LINES.**

**Act 182 of 1912, p. 326.**

**TITLE.**

AN ACT authorizing the several police juries throughout the State, the Parish of Orleans excepted, to resurvey and re-establish township lines, range lines, section corners and half-mile stations where the original witness trees have been destroyed or lost or survey where

no actual survey of the entire township has been made and authorize the approval of surveys already made; and authorizing the police juries to provide for appropriate money to defray the expenses of said survey and re-establishing of said lines; permit land owners to pay said cost; to provide cement, cast iron, or other permanent material to mark the corner of each section and half-mile station where the original witness trees have been destroyed or lost to require the filing and recordation of resolution of approval, process verbal and field notes, and to make copies of same admissible in evidence and conclusive unless set aside on grounds of fraud or gross error, and fixing penalties for the violation of the provisions of this act.

#### AUTHORITY TO RESURVEY.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the several parishes of the State, the Parish of Orleans excepted, are hereby authorized and empowered to procure necessary field notes where any exist from actual survey and to employ one or more competent surveyors to survey where same have never been actually surveyed, and re-survey and establish or re-establish the township lines, range lines, section corners and half-mile stations where the original witness trees have been destroyed or lost or where no such lines or corners were ever actually established.

#### APPROPRIATIONS FOR PURPOSE.

Sec. 2. Be it further enacted, etc., That the said police juries are hereby authorized to provide for and appropriate money out of the general fund of their respective parishes to defray the expenses of said survey or resurvey and establishing or re-establishing of said lines, corners and half-mile stations with cement, cast iron or permanent material where the original witness trees have been destroyed or lost or where none ever existed.

#### SURVEYS OF TOWNSHIPS.

Sec. 3. Be it further enacted, etc., That where any township in Louisiana has never been actually surveyed in whole, or only partially surveyed, or having been actually surveyed the lines of which have been obliterated or destroyed, the police jury of the parish in which such township is situated, shall, without delay, upon the petition of land owners, whether individuals or corporations, residents or non-residents, owning a majority in acres of the land, in such township, proceed to have same surveyed, and a map thereof made; provided that the land owners thus petitioning the police jury shall bear the cost and expense of such survey.

#### POLICE JURY MAY ADOPT SURVEY OF LAND OWNERS.

Sec. 4. Be it further enacted, etc., That in all cases where land owners of a township have caused an accurate survey and plat of the township to be made, whether the survey was made necessary by the destruction of the witness trees and obliteration of the boundary lines, or for the reason that the township had never before been actually surveyed, the said police jury be and it is hereby authorized to, by resolution or motion, formally adopt the survey and map thus made, which shall be the official map or plat of such township.

#### RECORDING OF SURVEYS AND MAPS.

Sec. 5. Be it further enacted, etc., That in all cases where a survey has been approved by the police jury under the provisions of this act, whether the same be an original or a resurvey, or whether a survey already made has been approved, a certified copy of the resolution approving said survey, the process verbal of said survey, embracing all field notes, and a tracing or blue print map of the actual survey of the township, shall be filed with the clerk of court and ex-officio recorder of the parish in which the township is situated, and by him recorded in the records of such parish, and similar copies shall be filed with the register of the State Land Office. The surveyor or surveyors, shall as near as

possible in making said survey re-establish the original lines, where a survey was made under the United States or State authority, and in all townships or portions of townships, where no actual survey has been made, the surveyor or surveyors, in surveying and platting such townships shall make same conform as near as practicable to the lots and sections as indicated upon the plats from which said lands were sold by the State or the United States.

#### **ADOPTED SURVEYS DECLARED OFFICIAL.**

Sec. 6. Be it further enacted, etc., That all actual surveys and plats approved by the police jury of the parish in which the township is situated, under the provisions of this act, shall become the official survey and plat of such township, and copies thereof, certified to by the clerk of court from the records of his office, or by the register of the State Land Office from the records of his office, shall be admissible in evidence in any of the courts of this State, and shall be conclusive evidence of the correctness thereof, unless same is set aside in a direct action on the ground of fraud or gross error.

#### **DESTRUCTION OF MARKINGS—PENALTY.**

Sec. 7. Be it further enacted, etc., That whenever any police jury shall avail itself of the provisions of this act, it shall be unlawful for any person to destroy, deface or remove any of the markings provided for in this act, and any person found guilty thereof shall be deemed guilty of a misdemeanor and shall be punished by fine or imprisonment or both in the discretion of the court.

#### **REPEALING CLAUSE.**

Sec. 8. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and they are hereby repealed.

### **WHEN POLICE JURORS MUST PASS ON ASSESSMENT.**

**Act 194 of 1906, p. 348.**

#### **TITLE.**

AN ACT fixing the time when the police juries of the several parishes of the State shall meet to pass upon the assessments made in their respective parishes.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of the State shall meet on the first Monday in June of each and every year, or as soon thereafter as possible, for the purpose of sitting as a board of reviewers of assessments in their respective parishes, to exercise the powers granted, and discharge the duties prescribed by them, by the existing laws.

Be it further enacted, etc., That all laws, or parts of laws, in conflict or inconsistent herewith be and the same are hereby repealed.

### **IMPOSING TAX FOR EXPENSES OF CRIMINAL PROCEEDINGS.**

**Act 92 of 1878, p. 144.**

#### **TITLE.**

AN ACT authorizing and directing the police jury of the several parishes to levy, impose and collect taxes for expenses in criminal proceedings, under the limitations of existing laws, on all property within the limits of their respective parishes, including all property situated within the limits of municipal corporations, and repealing all laws, or parts of laws, by which any municipal corporation is exempt from parish taxation for criminal expenses, so far as said laws are in conflict with the provisions of this act.

**Section 1.** Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the police juries of the several parishes throughout the State are, under the limitations of existing laws, hereby authorized and directed whenever any tax is to be levied for defraying the expenses in criminal proceedings to levy, impose, and collect said tax, on all property situated within their respective parishes, whether said property is situated within any incorporated town or otherwise; provided, that this act shall not apply to incorporated towns which, by the provisions of their charters, pay the entire expenses of all criminal proceedings originating within their own limits, and their pro rata of other parish expenses.

**Sec. 2.** Be it further enacted, etc., That all laws and parts of laws, whether special or otherwise, by which any corporation, city, or town is exempt from parish taxation, for expenses incurred in criminal proceedings of any kind, are hereby repealed, so far as said laws may conflict with the provisions of the first section of this act, and that this act shall take effect from and after its passage.

### **LICENSE TAX ON DOGS.**

**Act 198 of 1910, p. 335.**

#### **TITLE.**

**AN ACT** to authorize the police juries throughout the State of Louisiana to impose a license tax upon dogs, to enforce the same by penalties, and to devote the proceeds of said licenses to education.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries throughout the State be and they are hereby authorized and empowered and shall impose an annual license tax upon all dogs in their respective parishes, make such regulations and to impose such penalties as they may deem fit to enforce the collection of said tax.

**Sec. 2.** Be it further enacted, etc., That no license shall be imposed for a greater sum than two dollars.

**Sec. 3.** Be it further enacted, etc., That the payment of the license herein provided for shall constitute as property, the dog upon which it is paid.

**Sec. 4.** Be it further enacted, etc., That all the licenses and penalties collected under the power herein granted, less necessary costs of collection, shall be turned over by the different police juries to the respective school boards of the parish in which the license and penalties are collected.

**Note.** The act was declared unconstitutional in the trial court; on appeal it appeared that the ordinance of the police jury adopted under the act was not in the record, nor did the latter disclose the defense urged by the defendant. The Court affirmed the acquittal of the defendant, but said: "It is impossible to pass upon the law of the case without the ordinance of the police jury before us." *State vs. Vauthier*, 135 La. 786.

### **ANNUAL LICENSE TAX, SEVERING NATURAL PRODUCTS, ETC.**

**Act 296 of 1914, p. 605.**

#### **TITLE.**

**AN ACT** to authorize the police juries of the several parishes of the State to levy an annual license tax upon all persons, firms, corporations or associations of persons, engaged in the business of severing natural products, viz.: minerals, including oil, gas, sulphur, and salt, from the soil, and prescribing the mode and method in which persons who may become subject to said license tax, shall make a report of their business, and to authorize the provision of penalties for the violation of any act or ordinance of the several police juries.

**LEVY OF LICENSE TAX.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of the State of Louisiana are hereby authorized to levy an annual license tax for the year 1915, and for each subsequent year, upon each person, or associations of persons, firms or corporations, pursuing the business of severing natural products, viz.: minerals, including oil, gas, sulphur and salt from the soil; provided the amount of said license shall not exceed the amount which is, or may be, similarly levied by the State of Louisiana.

**REPORT OF LICENSES; EXAMINATION OF BOOKS.**

**Sec. 2.** Be it further enacted, etc., That when any police jury of any parish shall levy the license tax herein provided for, all persons, firms, corporations or associations of persons, engaged in the business subjecting them to said license tax, shall return to the tax collector of each parish a duplicate of any report required to be made, or which may be required to be made, under the State laws, in so far as the same may affect any parish in question; provided, said reports shall not be binding on the tax collector or the police jury, if in the opinion of either, said reports do not show a true and correct return of the business done; provided, further, that the tax collector or the police jury may call upon the State Auditor to investigate the books, records and files, of any person, firm, association or corporation to ascertain the amount and value of the business done, whenever either or both shall certify to the auditor that they, or either of them, have reason to believe that returns are not made or are incorrect; provided, further, that such investigation shall be made at the expense of the parish.

**PROVISION FOR LEVY AND COLLECTION.**

**Sec. 3.** Be it further enacted, etc., That whenever any police jury shall levy a license tax as herein provided for, it is authorized to provide for the levy and collection of the same at the time and under the conditions as prescribed for the like tax levied by the State, and under like penalties.

**FALSE OATH CONSTITUTES PERJURY.**

**Sec. 4.** Be it further enacted, etc., That any person who shall intentionally make any false oath to any report required under any enactment of the police jury, authorized by this act, shall be deemed guilty of perjury.

**REPEALING CLAUSE.**

**Sec. 5.** Be it further enacted, etc., That all laws contrary to and inconsistent herewith are hereby repealed.

**Note.** The act is not unconstitutional or invalid. Standard Oil Co. vs. Police Jury, 140 La. 42.

**PRESERVATION OF WILD GAME AND FISH.**

**Act 60 of 1896, p. 94.**

**TITLE.**

AN ACT to confer powers on the police juries of the several parishes of the State to pass such ordinances as they may deem proper for the preservation of wild game and game fish, such as trout, bass, speckle perch, etc., and providing penalties for violations of its ordinances.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That in addition to the powers already granted by law, the police juries of the several parishes of the State, shall have the authority to pass such ordinances as they may deem proper for the preservation of

wild game, and game fish, such as trout, bass, speckle perch, etc., in said parishes, and to prescribe time in which it may be taken or killed; and also to prevent idlers and vagrants and professional hunters from camping out or otherwise establishing themselves upon public or vacant lands, for the purpose of taking, trapping or killing fish or game to sell; and to prescribe and enforce the penalty for any contravention of such ordinance.

**Sec. 2.** Be it further enacted, etc., That when the police jury has passed an ordinance under this act, any violation of said ordinance is here declared to be a misdemeanor tryable before the District Court and punishable by a fine of not less than twenty-five dollars (\$25), nor more than one hundred dollars (\$100), or imprisonment in the parish jail not less than thirty (30) days nor more than sixty (60) days for each offense or both at the discretion of the court. This act to have effect immediately from and after its passage.

Note. See Louisiana Oyster and Fish Co. vs. Police Jury, 126 La. 522.

## POLICE JURIES MAY PROHIBIT KILLING OF GAME ANIMALS, ETC.

**Act 239 of 1912, p. 535.**

### TITLE.

AN ACT to authorize the police juries of the several parishes throughout the State to prohibit the killing of game animals and game birds for a limited length of time. The consent of the conservation commission having been first obtained, and to provide penalties for the violation of their ordinances.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes throughout the State be, and they are hereby authorized and empowered to prohibit the killing of game animals and game birds within their respective parishes, the consent of the conservation commission having been first obtained, for a period of not more than three (3) consecutive years, and that they are hereby authorized and empowered to fix penalties for the violations of said ordinance.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith, be, and the same are hereby repealed.

## TO PROHIBIT KILLING, ETC., OF ALLIGATORS.

**Act 37 of 1908, p. 37.**

### TITLE.

AN ACT to authorize police juries of each parish to enact such laws and to fix such penalties for the violations of the same as they deem necessary to prohibit the killing and destruction of alligators.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of their respective parishes throughout the State of Louisiana are hereby authorized to enact such laws as they deem best to prohibit the killing and destruction of alligators and to fix a penalty for the violation of the same.

**Sec. 2.** Be it further enacted, etc., That all laws or parts of laws in conflict with this act are hereby repealed.

Note. See Act 88, 1918, printed at p. 1439.

**PUNISHMENT FOR VIOLATION OF GAME LAWS.****Act 207 of 1908, p. 310.****TITLE.**

AN ACT to authorize police juries of each parish throughout the State of Louisiana to enact such laws and to fix such penalties for the violation of the same as they deem necessary to regulate the shipping of game, except deer, and game birds out of their respective parishes.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of their respective parishes throughout the State of Louisiana are hereby authorized and empowered to enact such laws as they deem best to regulate the shipping of game, except deer, and game birds out of their respective parishes, and to fix a penalty for the violation of the same.

Sec. 2. Be it further enacted, etc., That all laws in conflict with this act are hereby repealed.

*Note.* Act 277 of 1908 "leaves very little usefulness, if any, to be accomplished." under Act 207, 1908, "the last must prevail." *State vs. Dudley, 123 La. 436.*

**SHEEP INDUSTRY.****Act 43 of 1900, p. 226.****TITLE.**

AN ACT to protect the sheep industry of the State of Louisiana, by giving to the police juries of the different parishes of this State, power and authority to enact any and all such ordinances, as they may deem necessary, to prevent the ravages of dogs.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the different parishes of the State shall have power and authority to enact any and all such ordinances as they in their discretion may deem necessary for the protection of the sheep industry in their respective parishes.

Sec. 2. Be it further enacted, etc., That they shall have the power to assess, levy and collect, a per capita tax on all dogs in their respective parishes, under such rules or ordinances as they may deem necessary to carry into effect the provisions of this act.

Sec. 3. Be it further enacted, etc., That such tax so levied and collected, shall be placed to the credit of the school fund of the parish when such tax has been assessed and collected.

Sec. 4. Be it further enacted, etc., That all laws in conflict herewith be and the same are hereby repealed.

**SHEEP HUSBANDRY.****Act 111 of 1886, p. 207.****TITLE.**

AN ACT to encourage sheep husbandry, to protect sheep from the ravages of dogs, to make it a misdemeanor to knowingly own or keep a sheep-killing dog, and to provide a penalty for the same; and to invest police juries with power to pass certain ordinances, to declare the violation of such ordinances a misdemeanor, and to provide the punishment thereof.

**PREAMBLE.**

Whereas, many portions of this State are well adapted to sheep husbandry; and,

Whereas, this industry would greatly prosper and would be a source of great profit but for the ravages of dogs; therefore,

**ORDINANCES TO ENCOURAGE SHEEP HUSBANDRY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the several parishes of this State are hereby authorized to pass all such ordinances as they may deem necessary to encourage sheep husbandry, to protect sheep from the ravages of dogs, and to impose such fines and penalties to enforce said ordinances as they may deem proper, to be recovered by ordinary process before any court of competent jurisdiction, in the name of the police jury of the parish.

**VIOLATIONS—PENALTIES.**

Sec. 2. Be it further enacted, etc., Whoever shall violate any ordinance of a police jury passed pursuant to the foregoing section of this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one hundred dollars, or be imprisoned not exceeding thirty days, or both, at the discretion of the court; provided, that the imposition of a fine by civil process shall not be a bar to a prosecution under this section, nor shall a prosecution under this section bar a civil proceeding to recover a fine as provided in section one of this act.

**POLICE JURY ACTS ON PETITION OF TAXPAYERS.**

Sec. 3. Be it further enacted, etc., That upon the petition of not less than fifty taxpayers of any parish it shall be the duty of the police jury to pass and it shall pass the ordinances authorized and contemplated by this act; and the said police juries shall have the power and it shall be their duty, to devise ways and means to destroy dogs owned or kept contrary to their said ordinances, and at the expense of the parish, if necessary.

**DOGS KEPT IN DEFIANCE OF ACT MAY BE KILLED.**

Sec. 4. Be it further enacted, etc., That no damages shall be awarded against any person who shall kill any dog owned or kept in defiance of said police jury ordinances, or which shall have killed or maimed, or bit any sheep or lamb, and if sued he shall have the right to reconvene, wherever the plaintiff may reside, and if the defendant shall prevail in the suit he shall recover against the plaintiff ten times the amount of damages done by said dog, for the benefit of the owner of the sheep injured, and cost of suit, and also a reasonable amount for the expenses, loss of time and attorney's fees incurred by the defendant, which shall be collected as costs.

**DAMAGES AGAINST OWNERS OF DOGS.**

Sec. 5. Be it further enacted, etc., That if any dog owned or kept in violation of the police jury ordinances authorized by this act, shall injure any person or property, the person injured or the owner of the property injured shall recover against the owner or keeper of said dog, five times the amount of damages sustained and cost, together with a reasonable amount for his attorney's fees and necessary expenses, which shall be collected as cost.

**AMOUNT OF RECOVERY.**

Sec. 6. Be it further enacted, etc., That if any dog shall kill, maim or bite any sheep or lamb, the owner of the same shall recover from the owner or keeper of said dog, ten times the amount of damages sustained and cost, together with a reasonable amount for his necessary expenses, loss of time and attorney's fees, incurred by such suit, which shall be collected as cost.

**VIOLENTS—PENALTIES.**

Sec. 7. Be it further enacted, etc., That whoever shall knowingly own or keep any dog which shall have killed or maimed or bit any sheep or

lamb, shall be deemed guilty of a misdemeanor, and shall upon conviction be fined not less than twenty-five dollars, or imprisoned not less than thirty days, or both, at the discretion of the court. Credible information from others, verified by oath, and communicated to the owner or keeper of said dog, and strong circumstantial evidence, as well as the personal experience of such owner or keeper, shall constitute knowledge in the sense of this section. A prosecution under this section shall not bar any civil proceeding authorized by this act, nor shall such civil proceeding bar said prosecution.

#### **REPEALING CLAUSE.**

**Sec. 8.** Be it further enacted, etc., That all laws or parts of laws contrary to or inconsistent with the provisions of this act, be and the same are hereby repealed.

**Note.** The trial court held the act unconstitutional, but gave judgment to plaintiffs for \$25.00, with attorney's fees, as being the actual damage suffered. The defendant appealed. Held, that the Supreme Court had jurisdiction of only the issue of constitutionality *re l. non*, that in fact the act was constitutional, and having so found, it amended and increased the judgment. *Rausch et al vs. Barrere*, 109 La. 563.

### **POLICE JURY MAY HIRE OUT PRISONERS OR WORK THEM ON PUBLIC ROADS, ETC.**

**Act 204 of 1908, p. 304.**

#### **TITLE.**

**AN ACT** authorizing police juries of the respective parishes (the parish of Orleans excepted) to hire out or work on public roads, or any public works or farms within the parish, any convicts sentenced to pay a fine, or sentenced to imprisonment in the parish jail, or sentenced to such imprisonment and the payment of a fine, for the term of their sentence of imprisonment, authorizing police juries to work or hire out such convicts for the payment of their fines, costs and fees; classifying such convicts; fixing the maximum and minimum of wages that shall be credited to them while working out such fines, costs and fees, regulating the time and manner they shall be worked, their treatment and discipline, while being worked, authorizing police juries to employ guards for said purposes, and to make regulations for the care, detention and working of such convicts and to make deductions of time for diligent services of such convicts; providing penalties for attempts at escape and for escapes; providing for making up of time lost by reason of temporary illness and disability; limiting the time for which any convict may be held for his fine, costs and fees; providing for the payment out of the revenue derived from the letting of convicts of the fees due officers of court and district attorney for prosecutions of convicts and providing for the hiring out of persons confined in the parish jails awaiting trial whenever such persons shall elect to be so hired out.

#### **PROVIDING FOR THE LEASING OUT OR WORKING ON THE PUBLIC ROADS OF PERSONS SENTENCED TO THE PARISH JAIL.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That when any person shall be convicted and sentenced by any competent court of the State (parish of Orleans excepted) to imprisonment in the parish jail, or to such imprisonment and the payment of a fine, or to such imprisonment in default of the payment of a fine, he shall be committed to such jail there to remain in close confinement for the full term specified by the court, provided that all able-bodied males over the age of eighteen years and under the full age of fifty-five years shall be worked upon the public roads, public works, or shall be hired or leased out to any one person, for the purpose of working them within the parish, such convicts to be kept at work until the expiration of the

sentence of imprisonment, provided further that where in the discretion of the court the person so convicted and sentenced should be kept in close confinement the court may so order, and provided further that convicts sentenced to imprisonment alone, or to imprisonment and fine, shall not be hired out for a less sum than the aggregate of their fine, costs of court and fees of the officers.

**NO PERSON TO BE HELD IN CUSTODY FOR FINES FOR MORE THAN TWO YEARS.**

Sec. 2. Be it further enacted, etc., That when any person shall be sentenced to pay a fine, or to imprisonment in the parish jail and to pay a fine (the parish of Orleans excepted), and shall not pay such fine, costs and fees, the police jury may hold him in custody and work him on any public road or other public work, or, if able-bodied, and over the age of eighteen years and under the age of fifty-five, may hire or lease him out to any one person who shall work him in the parish until he shall work out the amount due by him for such fine, costs and fees, at the price and rate of wages to be fixed by the police jury, subject to the limitations hereinafter fixed, but no convict may be held in custody for fines and costs for more than two years; provided this act shall not apply to a person sentenced to pay a fine and to be confined in the State penitentiary.

**CONVICT MAY PAY HIS FINE AT ANY TIME.**

Sec. 3. Be it further enacted, etc., That such convict shall be allowed to pay the amount of his fine, costs and fees at any time, and shall not be held in custody therefor after he shall have paid the same to the Sheriff.

**DISCIPLINE THAT MAY BE USED.**

Sec. 4. Be it further enacted, etc., That the person who leases the convicts shall furnish said convicts with sufficient wholesome food and with proper bedding and lodging, and he shall treat the convict humanely and use only such discipline as may be necessary to secure his diligent labor for not exceeding ten working hours of each twenty-four, keep said convict under proper control, and prevent escape.

**CLOTHING, MEDICINES AND MEDICAL ATTENTION TO BE FURNISHED.**

Sec. 5. Be it further enacted, etc., That out of the revenues derived from the leasing of convicts the police jury shall provide proper and suitable clothing and medicine and medical attention, the same to be under the supervision of the coroner of the parish.

**GOOD TIME ALLOWED OFF.**

Sec. 6. Be it further enacted, etc., That any convict working under the direction of the police jury who renders efficient services and complies with all necessary rules and regulations shall have deducted from his term of imprisonment one-sixth thereof.

**POLICE JURY MAY ESTABLISH REGULATIONS AND RULES OF DISCIPLINE.**

Sec. 7. Be it further enacted, etc., That the police jury may establish regulations for the working, guarding, safekeeping, clothing, housing and sustenance of convicts while working under its supervision and for their discipline while idle or refractory, and may enforce reasonable penalties for infractions of such regulations.

**TERM OF IMPRISONMENT MAY BE INCREASED FOR ATTEMPT TO ESCAPE.**

Sec. 8. Be it further enacted, etc., That when a person is convicted and sentenced and is apprehended in an overt act in an attempt to escape, upon due proof being produced to a competent court, said con-

vict's sentence may be increased ten per centum of the unexpired term and a sufficient time in addition thereto to cover costs of proving the overt act and attempt, and when any such convict shall escape he shall suffer a penalty for such escape of additional imprisonment to cover the costs of his recapture, and ten per centum of his unexpired term in addition thereto for such escape.

**CLASSES OF CONVICTS.**

Sec. 9. Be it further enacted, etc., That all convicts are divided into two classes, to-wit:

**FIRST CLASS.**

First. All able-bodied males, over the age of eighteen years and under the age of fifty-five years.

**SECOND CLASS.**

Second. All other convicts, and no convicts except those falling in class first shall be leased out, all others shall be confined in the parish jails or worked by the parish under the supervision of the police jury and proper officers appointed by said police jury.

**WAGES OF CONVICTS TO BE FIXED BY POLICE JURY.**

Sec. 10. Be it further enacted, etc., That the wages of convicts when worked on public roads, other public works, or otherwise under the supervision of the police jury shall be fixed by the police jury within the following limits: Convicts in class first, not less than five dollars per month nor more than sixteen dollars per month, and, in class second, not less than two dollars per month nor more than ten dollars per month, and where convicts in class first are leased out they shall be leased to the highest bidder, who shall be a suitable person, after due advertising, and upon proper recommendations, the police jury to be the judges of the suitability of the bidders, and the price and terms shall be fixed by contract, provided that the rate of wages be not less than the minimum fixed herein, to-wit, five dollars per month.

**LESSEE MAY BE REQUIRED TO GIVE BOND.**

Sec. 11. Be it further enacted, etc., That when the police jury hires out any convict either for his term of imprisonment or for the payment of his fine, costs and fees, it may require the lessee to give bond for the payments of the price, and the lessee or contractor shall take the risk of the convict's escape after delivery to him, but if the convict be pardoned or disabled or otherwise discharged by law, or die without the fault of the lessee or contractor, the police jury shall credit the lessee or contractor with the amount unearned by such convict, and if any first class convict, leased out to the contractor, shall become disabled permanently, such disability to be determined by the coroner and recommended by him to the court for relief, such convict shall be reclassified to class second, and the contractor shall be credited with his time from the date of the coroner's recommendation to the court.

**RECORD TO BE MADE BY SHERIFF.**

Sec. 12. Be it further enacted, etc., That on the delivery of a convict to the lessee, or to the person authorized to superintend the public work to be done by the convict for the parish and who shall have charge of such convict, the sheriff shall enter on the jail docket the class of convict, sex and age, the date and fact of such delivery, the time for which he was sentenced, the amounts of fine, costs and fees charged to the convict, and the monthly wages he is to be credited with as fixed by the police jury.

**WARRANT OF DETENTION TO BE GIVEN TO LESSEE.**

Sec. 13. Be it further enacted, etc., That on the delivery of every convict the sheriff shall give the person entitled to his custody a war-

rant of detention as authority for the detention of the convict (unless such convict pay out before that time, or have his time extended by the way of penalties as provided herein) until a certain day, and that on the day named he shall discharge such convict and deliver to him the warrant with an indorsement thereon that he has been duly discharged, and such warrant shall be the sole authority of any such person to detain a convict in custody.

**APPLICATION OF REVENUES FOR LEASING OF PRISONERS.**

Sec. 14. Be it further enacted, etc., That out of the proceeds or revenues of the leasing of convicts to the lessee the police jury shall pay to the officers of court and district attorney the fees due them for the prosecution of such convict, but no payment of costs and fees shall be made out of said revenues except the costs and fees due by the convicts actually leased and who shall serve out their full time, subject to the reduction of one-sixth for good conduct.

**POLICE JURY MAY EMPLOY GUARDS FOR PRISONERS.**

Sec. 15. Be it further enacted, etc., That while any convicts are hired out or worked under the supervision of the police jury they may be kept over night and at such times as they are not at work in the parish jail or other place for safekeeping, as the police jury shall direct, and that body shall have power to employ guards to watch and direct the labors of such convicts as are worked under its supervision.

**WORK MUST BE DONE WITHIN PARISH.**

Sec. 16. Be it further enacted, etc., That the lessee or contractor who shall be selected by the police jury shall be required to work said convicts within the parish, and shall not be permitted to sublease them to any person whomsoever.

**REPEALING CLAUSE.**

Sec. 17. Be it further enacted, etc., That all laws inconsistent herewith or in conflict with this act are hereby repealed, and that this act shall go into effect when promulgated.

Note. Acts 294, 1894, p. 31 and 191, 1904, p. 424, are on the same subject matter. These acts are not printed in this edition as they have been superseded by the Act of 1906, though not repealed in terms.

The defendant was sentenced in default of payment of fine and costs to confinement in parish prison for sixty days, "subject to road work." On appeal the Court held it was without jurisdiction, as "subject to road work" was not imprisonment at hard labor within Const., Art. 85. State vs. Rigmalden, 135 La. 236.

**SALE OR GRANT OF FRANCHISES OVER PUBLIC ROADS,  
ETC., TO ELECTRIC, ETC., RAILWAYS.****Act 48 of 1906, p. 63.****TITLE.**

AN ACT amending and re-enacting the title and Act No. 188 of 1902, approved July 10, 1902, entitled "An Act to authorize police juries throughout the State to sell and grant franchises on the public roads and highways of the respective parishes of the State; for the construction of railways utilizing electric or other motive power than steam; to provide the mode and manner of petitioning police juries to sell such franchises; to prescribe who shall have the right to sign such petitions; to define the manner of canvassing such petitions; to fix the terms and conditions of such franchises; to provide for the advertisement of the sale of such franchises; to provide for the sale of same; to fix the terms and conditions and the method of such sales; to provide for joint action of two or more parishes in the sale of franchises extending through such parishes; to provide the mode and manner of selling franchises extending in more

than one parish; to define the manner of sales of such franchises; the time and place of same and the conditions thereof; to apportion the income derived from the sale of such franchises extending in more than one parish among the parishes into which the franchises extend; to set aside the income derived from such sales to be used for maintaining, improving and repairing the public roads of the parish receiving such income; to provide for sworn statements of the gross earnings of the purchasers of such franchises, in the operation of same; to require oaths as to the veracity of such statements; to make it perjury to swear falsely to such statements; to provide penalties for making false statements or false oaths; to create accessories to such false oaths; to prescribe penalties for accessories to such false oaths and false statements; to authorize police juries to review of the books, papers and documents appertaining to the operation of such franchises; to provide penalties for making false entries or for omitting such entries on the books of the purchasers of such franchises, with a view of defrauding the parish selling or granting such franchise; to provide penalties for refusing to exhibit such books, papers and documents; to fix the time when the percentage of annual gross receipts coming to the several parishes shall become due and exigible; to grant a privilege on the franchise; in favor of the parish; to provide for the recordation of such privilege; to fix its rank as regards other mortgages and privileges; to enforce such privilege; to fix the rate of interest on the amount due the parishes when purchaser of such franchises have become delinquent; to provide the manner of enforcing the collection of the percentage and the penalties due the parishes; to provide for the forfeiture of franchises and the resale of them."

#### **AUTHORIZING GRANT OF FRANCHISES TO ELECTRIC, ETC., OVER PUBLIC HIGHWAYS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the title and Act No. 188 of 1902, approved July 10, 1902, be amended and re-enacted so as to read as follows: An act to authorize police juries throughout the State to sell and grant franchises on and across public roads and highways utilizing electric or other motive power than steam; to provide the mode and manner of petitioning police juries to sell such franchises; to prescribe who shall have the right to sign such petitions; to define the manner of canvassing such petitions; to fix the terms and conditions of such franchises; to provide for the advertisement of the sale of such franchises; to provide for the sale of same; to fix the terms and conditions and methods of such sales; to provide for joint action of two or more parishes in the sale of franchises extending through such parishes; to provide the mode and manner of selling franchises extending in more than one parish; to define the manner of sales of such franchises; the time and place of same and the conditions thereof; to apportion the proceeds derived from the sale of such franchises extending in more than one parish, among the parishes into which such franchises extend; to set aside the proceeds derived from such sales to be used for maintaining, improving and repairing the public roads of the parish receiving such proceeds.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That authority is hereby granted to the several police juries of the parishes of this State, acting severally or in conjunction with each other, as the case may be, to sell, and grant franchises for the construction, maintenance, and operation of railways utilizing electric or other motive power than steam, on and across the public roads and highways in this State, under the conditions and provisions hereinafter set forth.

#### **BIDS FOR FRANCHISES TO BE ADVERTISED.**

**Sec. 2.** Be it further enacted, etc., That upon the presentation to any police jury of a written petition or petitions signed by a majority in num-

ber and amount of the abutting property holders along any public road or roads in this State, requesting the police jury to advertise and sell a franchise to construct, maintain, and operate, for a term mentioned in the petition not to exceed ninety-nine years, a railway utilizing electric or other motive power than steam on said road or roads, the police jury shall, at a public meeting called for that purpose, canvass such petition so presented, and in case it decides that a majority in number and amount of the abutting property holders on such public road or roads have signed such a petition or petitions, it shall proceed forthwith to fix the terms and specifications of such franchises, incorporating therein any special condition or specification requested and to advertise the same for thirty days in the official journal of such parish, or in case there be no official journal then in any newspaper published in the parish, and when no newspaper is published in the parish, then by posting same in a conspicuous manner at the court house door of the parish, inviting bids for such franchise, and on the day fixed by such advertisement, the president of the police jury shall, by public auction, sell such franchise to the bidder or bidders offering the highest cash price.

**WHAT PETITION SHALL CONTAIN.**

**Sec. 3.** Be it further enacted, etc., That the petitions so to be presented to the police jury shall contain:

First. The designation or description of the road or roads upon which it is proposed to have such railway constructed.

Second. The term for which said franchises is to be granted.

Third. The termini of the proposed railway. And said petition may also contain such terms and conditions and specifications relating to said franchise as the property holders may see fit to require.

**Sec. 4.** Be it further enacted, etc., That no part of the expense of advertising or selling of any such franchise shall be paid out of any funds under the control of the police jury.

**WHERE ROAD EXTENDS THROUGH TWO OR MORE PARISHES.**

**Sec. 5.** Be it further enacted, etc., That the abutting property holders along any road or roads extending into or through two or more parishes may petition their respective police juries to sell, as one entire franchise, the right to construct, maintain, and operate a railway on said public road extending through two or more parishes. The several police juries on receipt of such petition or petitions shall in public session canvass such petitions, and if they find that same is signed by a majority in number and amount of the abutting property holders along that portion of the public road lying in their parish, they shall declare the result of such canvass and shall forthwith select a committee composed of three members of such police jury to meet and act with a like committee from the several police juries from the parishes through which the proposed railroad is to be constructed. Said committees so appointed by the respective police juries shall meet and fix the terms and conditions and specifications of the franchise proposed to be sold, as well as the time, place and manner of advertisement and sale thereof, and the said franchise so agreed upon by the said committee shall be submitted at a special meeting called for that purpose to the respective police juries for their approval and adoption. Upon the adoption of such franchise by the several police juries of the several parishes through which said railway is to be constructed, same shall be advertised and sold at the time and in the place and manner fixed by said committees acting jointly, to the person or persons offering to pay the highest cash price.

**DISPOSITION OF PROCEEDS WHERE ROAD EXTENDS INTO TWO OR MORE PARISHES.**

**Sec. 6.** Be it further enacted, etc., That whenever a franchise to operate a railway on a public road extending through two or more parishes as in the manner hereinabove specified, has been sold, the proceeds from

the sale of said franchise shall be apportioned among the several parishes according to the mileage of said railway in each of said parishes.

**PROCEEDS TO BE DEVOTED TO IMPROVING PUBLIC ROADS.**

Sec. 7. Be it further enacted, etc., That the proceeds derived from the sale of such franchises shall be set aside and form a separate fund to be used in maintaining, improving and repairing the public roads of the parish into whose treasury it is paid.

**FRANCHISE TO BE GIVEN HIGHEST BIDDER.**

Sec. 8. Be it further enacted, etc., That such franchise shall be sold to the person or corporation offering at said sale the highest cash price for same.

**AUTHORITY TO POLICE JURY IN SUCH MATTERS.**

Sec. 9. Be it further enacted, etc., That authority is hereby granted to the several police juries of the parishes of this State to grant authority to railways utilizing electric or other motive power than steam to cross over all roads and highways in this State within their jurisdiction and to construct, maintain and operate said tracks across said highways under such conditions and provisions as the said police juries shall see fit to impose.

**REPEALING CLAUSE.**

Sec. 10. Be it further enacted, etc., That all laws or parts of laws in conflict with this act be and the same are repealed.

Note. A railroad corporation which has acquired a franchise from the police jury under this act has the right to cross intervening railroad tracks. *Shreveport Traction Co. vs. Kansas City S. & G. Ry. Co.*, 119 La. 778. Such a franchise must be sold at auction, and where the police jury incorporates in the franchise such conditions that in the natural order of things there will only be one bidder, a sale to such bidder is null and void. *Friscoville Realty Co. vs. Police Jury*, 127 La. 318.

**AUTHORITY TO BUILD ROADS THROUGH CORPORATE VILLAGES.**

**Act 215 of 1918, p. 397.**

**TITLE.**

AN ACT to authorize and permit police juries throughout the State, in certain cases, to build and construct good roads, in whole or in part, through the corporate limits of villages.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, that from and after the passage of this act, all police juries throughout the State may construct good roads, in whole or in part, of the type commonly known as "model roads," through the corporate limits of villages, whenever it becomes necessary to construct said roads for the purpose of forming a connection through said villages between the ends or terminals of good roads already constructed by said police juries to the corporate limits of said villages.

Sec. 2. Be it further enacted, etc., That for the purpose of constructing said roads said police juries may either issue bonds or certificates of indebtedness under existing laws, in cases where sufficient funds cannot be provided out of either the general or road funds of the parish in which the roads may be constructed.

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict herewith are hereby repealed.

## CONSTRUCTION AND MAINTENANCE OF PUBLIC ROADS.

Act 30, E. S. 1917, p. 43.

### TITLE.

AN ACT to confer upon the police juries of the various parishes of the State the power and authority to provide for the construction and maintenance of public roads and highways in their respective parishes; to provide the funds for the accomplishment of these works of public improvement by the issuance of bonds within the limits of their respective parishes and to levy taxes conformably to the Constitution; to pay the principal and interest on said bonds; to authorize the division of parishes into road districts and sub-road districts; to provide for the administration of the affairs of said road districts or sub-road districts; to invest the police juries with the authority to act as the governing body of said road districts and sub-road districts, with power to expropriate property, to provide means and methods for the payment of expenses of said districts and to carry on the business and operation thereof; to provide for the duties and powers of assessors and tax collectors charged with the assessment and collection of taxes in said parish road and sub-road districts and their compensation, and also to make provision relative to the sale of bonds authorized for the purpose of constructing and maintaining public roads and highways and to provide the letting of contracts for the construction and maintenance of public roads and highways, and the agencies acting under the authority of the police jury, for the accomplishment of all the purposes of this act, to approve and ratify all bonds voted for in any parish or road district and to continue the operation of existing districts and the fulfillment of their obligation, and to repeal all laws in conflict herewith.

### ELECTIONS TO INCUR DEBT, ETC., TO BUILD ROADS.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the various parishes of this State are hereby authorized and empowered to call such elections within the limits of their various parishes as may be necessary to take the sense of the property taxpayers qualified to vote under the Constitution and laws of this State, as to whether or not said police jury can incur debt and issue negotiable bonds to represent the debt, for the purpose of constructing and maintaining public roads and highways within the territorial limits where such election is called and held, provided that such election shall always be called and held within fixed geographical limits established by the police jury after public notice of the fixing of said limits, the notice of the fixing of such limits to be the published ordinance of the police jury establishing the same as appearing in the official journal of the parish, and provided further that all bonds authorized within such limits as thus established shall be the obligations of the parish, to be paid from taxes levied and collected in accordance with Article 281 of the Constitution, on all property within the territorial limits wherein the election is held as fixed by the terms of this section of this act, and all bonds issued and all elections held under the conditions of this section to be held conformably to the terms and conditions of Article 281 of the Constitution of the State and Act 256 of the Legislature of 1910, as amended; provided that all bonds issued by road or sub-road districts shall be the direct debt and obligations of such districts and issued in their names, through the police juries as their governing authorities.

### DIVISION INTO ROAD DISTRICTS.

Sec. 2. Be it enacted, by the General Assembly of the State of Louisiana, That the police juries of the various parishes of this State are empowered and authorized upon their own initiative to divide their parishes

into one or more road districts, such districts to be known by numerical designation as follows: Road District No. (here insert the number) of the Parish, (here insert the name of the Parish), but the police jury of any parish shall create a road district in said parish on petition of not less than twenty-five per cent (25%) of property owners resident in said proposed road district, and that the police juries of the various parishes shall have authority to also divide road districts into one or more sub-road districts, but a sub-road district shall only be created upon the petition of fifty per cent (50%) of land owners, resident with property assessed to their names in said sub-road district, provided, however, that the police jury and with the consent of Board of Supervisors, if one there be, shall always have the right to repeal any ordinance creating a road district or shall always have a right to merge two or more road districts into one road district, or shall have a right to abolish a road district in its entirety by making such provisions as will fulfill all the obligations that may have been incurred by any road district during the period of its existence, provided that the published ordinance of the police jury shall be notice of the creation of such road district; all objections to the creating of same must be filed with the clerk of the police jury within ten days from such publication after which time no objection can be heard, if any timely objection is entered it will be heard by the police jury within thirty days.

**POLICE JURY IS BOARD OF ADMINISTRATION OF ROAD DISTRICTS.**

Sec. 3. Be it further enacted, etc., That the police juries of the various parishes in this State are hereby constituted the Board of Administrators or the governing authority of the road districts created in their respective parishes, subject to such restrictions as may hereinafter be set forth, and the said road district and sub-road districts, when created, and the police juries, as their governing body, will constitute, for all of the purposes of this act, a public corporation to be known and designated by the name fixed by the police jury in the ordinance creating the same, and as such a public corporation, it shall have all powers of a corporation, shall have perpetual existence, shall have the right and power to incur debt and contract obligations, to sue and be sued, to have a corporate seal, to do and perform all of the acts in its corporate capacity and in its corporate name necessary and proper for the purposes of constructing public highways in said road or sub-road district created, and in constructing the same, to do all acts necessary therein, such as the bridging of streams and ditching of the said road, whether the ditches are to be constructed along the roads or through adjacent property, and generally to perform any and all duties that be necessary to carry out the objects and purposes for which the said road or sub-road district was created. Such road district shall have the power of expropriating property for the purpose of acquiring rights of way for the building and constructing of public roads and highways and the cutting of necessary ditches and canals for the draining of same, and shall have the power to acquire machinery and equipment such as may be essential to the proper accomplishment of the purposes for which it is created. The domicile of the road districts and sub-road districts created by the police juries of this State shall be the county seat of the parish wherein said road is located.

**APPOINTMENT OF SUPERVISING BOARDS ON PETITION OF PROPERTY OWNERS.**

Sec. 4. Be it further enacted, etc., That on request of fifty per cent (50%) or more of property owners, resident, in any road district, the Police Jury shall appoint for said road district a supervising board of not less than three nor more than five (5) property owners in said district and the property owners thus requesting will have a right to suggest the names of the members of the said supervising board and in the event of contest or failure to suggest, the Police Jury will exercise the discretion of choice. The said supervising board shall have power and authority, after a road bond or tax is voted, to provide the specifications under the terms of this act for

road construction, to locate roads, to call for bids, to let the contract for road construction and supervise the construction of the roads in said districts. The supervisors shall be the agents of the Police Jury in all matters pertaining to road construction in their respective districts. The supervisors of each road district shall elect a chairman and secretary from their own number, who shall serve without pay. The supervisors shall meet each week during road construction, but only on call of the chairman after completion of construction, when their authority will extend to the making of recommendations to the Police Jury for the proper maintenance and repair of roads in their district. The supervisors during construction shall approve all estimates of work before they are paid by the governing body and the governing authority shall recognize and approve the contracts let by the supervisors unless attackable for fraud or its equivalent or unless attackable on legal grounds.

**OFFICERS OF ROAD DISTRICTS.**

Sec. 5. Be it further enacted, etc., That the officers of the Police Jury where the road district or sub-road district is located shall be the officers of the road district or sub-road districts located in said parish and shall serve without extra compensation. The treasurer of the Police Jury shall be the treasurer of the road district and he shall give a special bond for the faithful performance of the duties of his office. He shall receive no extra compensation for the performance of duties incumbent upon him, but the Police Jury, acting as the governing authority of the road or sub-road district, shall pay the premium on his bond and all other expenses incurred by him.

**ELECTIONS TO DETERMINE BOND ISSUES.**

Sec. 6. Be it further enacted, etc., That in order to carry out the provisions of this act relative to the proper administration of the affairs of said parish road or sub-road districts, and the police jury, as the governing authority of said parish or district, shall have the right to call elections, in accordance with the terms and conditions of Act 256 of the Legislature of 1910 and the amendments thereto, or any subsequent acts of the Legislature supplementing or amending same, and shall have the right to issue bonds in accordance with the terms and provisions of the constitution and laws of Louisiana, now in force or that may be hereafter enacted, to provide the means for the construction of public roads in accordance with the purposes and intents of this act; that when said bonds are issued in accordance with the authority conferred by the provisions of the Constitution and the laws of the State of Louisiana, the said bonds shall be offered by the said governing authority of said parish road or sub-road district by offering the same after thirty (30) days' advertisement and receiving sealed bids for the purchase thereof; that the governing authority of said parish road or sub-road district shall meet on a specially designated day to open the bids for the bonds thus offered, each bid to be accompanied, before it is opened, by a certified check on some National Bank doing business in this State or some solvent bank chartered under the laws of this State for at least two and one-half per cent ( $2\frac{1}{2}\%$ ) of the face value of bonds, or in such amounts as the governing authority may determine, and when compatible with the best interest of said road district, taking into consideration the responsibility of the bidders, the governing authority shall always award the sale of said bonds to the highest bidder for the same. The police jury shall always have the discretion to reject any and all bids. The award of said bonds shall be at a price not less than the price fixed by the Constitution. The proceeds of sale of said bonds when paid into the treasury of the road district or of the parish, as the case might be, shall be deposited with the fiscal agent of the district or of the parish, which fiscal agent may be chosen by the governing authority in such way and under such conditions as in the discretion of said governing authority will aid materially to the sale or disposition of the bonds. There may also be coupled with the bid for the purchase of bonds the conditions that the proceeds of all said bonds

shall be deposited in some designated bank to act as fiscal agent of the parish or district for the road fund, the said fiscal agent to pay no interest for the deposit as part of the consideration for the purchase of the bonds.

**CHARACTER OF ROAD; HOW DETERMINED.**

Sec. 7. Be it further enacted, etc., That whenever any road construction is to be let for account of any road or sub-road district, the contract whereof will exceed in value two thousand dollars (\$2,000.00), the governing authority or the supervising board, if one there be, must determine the character of road to be constructed, and they shall proceed to provide through the parish surveyor, or any other surveyor selected by said board, proper specifications for the construction of said road or highway, which specifications, before they shall be announced as the official specifications of said subdivision as to the character of road desired, will receive the sanction and approval of the Board of State Engineers through the highway department thereof, and after the adoption of said specifications thus approved, shall be advertised for bids to do the work according to the plans and specifications prepared, which advertisement shall appear for the full term of thirty (30) days in the official newspaper of the parish where the road is to be located, and may also be advertised in other paper or papers in the discretion of the Police Jury or Supervising Board, if one there be, such advertisement shall state the place where the bids will be received, the time and place where the bids will be opened and a general outline of the work expected to be performed. Every bid will be accompanied by a certified cheque of the bidder in an amount equal to five per cent (5%) of the amount of the bid, which cheque shall be forfeited to the road district or sub-road district should the bidder to whom such contract is awarded fail to enter into the contract required within ten (10) days after notice to do so from the governing authority or supervising board of the district awarding the work. The cheques of all unsuccessful bidders to be returned after the contract is awarded. All bids so submitted shall be addressed to the governing authority or supervising board of the district and shall be publicly opened and read at the time stated in the advertisement. The Police Jury or supervising board shall have the right to reject any and all bids if in their opinion it should be deemed to the interest of the district so to do, but unless for cause, which in their discretion may be deemed sufficient, it should award the bid to the lowest bidder. The Police Jury or supervising board may also proceed to execute the work with its own force and its own equipment and under its own supervision. The bidder, however, to whom such contract is awarded shall be required to furnish bond of a surety company authorized to do business in Louisiana, in a sum equal to one-half of the contract awarded, conditioned that such work shall be performed in accordance with the plans and specifications and the terms of the contract. The awarding of the contract by the Police Jury to a successful bidder will be binding upon both, even though for some cause there should be no signing of the actual contract.

**SPECIFICATIONS; HOW DRAWN.**

Sec. 8. Be it further enacted, etc., That all specifications for road contracts shall be drawn to conform as nearly as possible to terms and conditions imposed by the highway department of the State of Louisiana as outlined in Act 49 of the Legislature of 1910, which act, for the purposes of road districts, shall be followed as closely as compatible and shall be the guidance for the governing authority or Supervising Board of such road districts in construction, operation and maintenance of the public highways under their control and shall be altered to conform to the class and character of road desired. When, however, any road district is expected to co-operate with the highway department of the State and has applied for and is receiving State aid in the construction of its roads, its contracts and operation shall be governed exclusively by the terms and conditions of the State Highway Act No. 49 of 1910. It is specially made the duty of the engineers of Police Juries and supervising board to provide for the most adequate drainage for the road constructed under their supervision and care.

**MAINTENANCE OF ROADS FUND; PROVISIONS IN BUDGET.**

Sec. 9. Be it further enacted, etc., That whenever there shall have been constructed in any of the parishes, road districts or sub-road districts of this State any hard-surfaced roads, it shall be the duty of the police juries of the various parishes of this State and of the parish in which said roads are located, to provide annually in its budget for such amount as will be required for the maintenance and repair of the roads thus constructed in said Parish, and any taxpayer shall have the right of action to enforce the fulfillment of this requirement, provided, however, that this shall not apply in cases where a special tax may have been voted in any parish, or portion of a parish, to provide for the maintenance of the roads or highways in that locality where the tax is levied.

**SPECIAL TAXES, LIENS, ETC.**

Sec. 10. Be it further enacted, etc., That the special taxes imposed for the purpose of providing for the principal and interest on the bonds of any parish, for the parish or any portion thereof, or for any road or sub-road district, shall each year be levied by the police jury on the property in the subdivision or in that portion of the parish where bonds have been voted and authorized, assessed by the assessor of the parish and collected by the tax collector thereof under the same terms and conditions and at the same time as State and parish taxes; that the said taxes shall bear the same liens upon the property as State, parish and other special taxes; that the property shall be sold for delinquent taxes in the same manner as property sold for state, parish and other taxes, and it shall be the duty of the assessor to assess the property in the same manner as he assesses for state and parochial purposes. After the said assessor has established the valuation of the property for state and parochial purposes, he shall copy and list a special roll for road or sub-road districts, as the case may be, and specially carry on said special roll the description of the property to be taxed, the name of the owner, the amount of tax, and file said special roll in the same manner as he will file the rolls for state and parochial taxes, and for such work performed the assessor shall be entitled to ten dollars (\$10.00) for the making of this special roll for each road district, making no extra charge for any sub-road district, subject however to all the conditions imposed by Act No. 144 of 1916.

**CONSTITUTION AND GENERAL LAWS CONTROL TAXATION.**

Sec. 11. Be it further enacted, etc., That all the articles and provisions of the Constitution of Louisiana and all laws in force or that may hereafter be enacted, regulating and relating to the collection of taxes and the creation of tax liens and mortgages and tax penalties and sales shall also apply to and regulate the collection of the special taxes for road purposes in all of the road or sub-road districts in this State, and the sheriff or ex-officio tax collector for the parish in which the road or sub-road district is located, shall make monthly settlements with the treasurer of the road or sub-road district and receive from him a receipt for the amount of taxes paid and make a final settlement with him of all the road taxes paid over in the same manner as tax collectors are required to settle with the Auditor of the State of Louisiana, and he shall receive from the road district the same quietus for a full settlement of the taxes due and exigible in a given year and account for the delinquents or deductions in the same manner as though accounting to the Auditor of the State for State taxes, and the tax collector and ex-officio tax collectors shall receive for all services rendered in collecting and paying over the special taxes for road purposes in any given road or sub-road district or in any parish of the State, one-tenth of one per cent on the amount collected and paid in. Upon failure of such tax collector to comply with the provisions of this Act, the governing authority of the district shall have authority, and it shall be their duty, to proceed against the sheriff and ex-officio tax collector and the sureties on his official bond as such, for the collection of whatever amount may be due said district, subject, however, to all the conditions imposed by Act No. 143 of 1916.

**MINUTES OF JURY AS GOVERNORS OF ROAD DISTRICTS, ETC.**

**Sec. 12.** Be it further enacted, etc., That the minutes of the Police Jury when acting as the governing authority of such road district or sub-road district shall be kept separately from the minutes of the Police Jury of the parish. The said minutes shall constitute a public record, open at all times for inspection and the proceedings shall be published in the same manner as the proceedings of the Police Jury.

**TRANSFER OF EXISTING ROAD DISTRICTS; FULFILLMENT OF CONTRACTS.**

**Sec. 13.** Be it further enacted, etc., That all road districts heretofore organized under the laws of this State shall immediately after the promulgation of this Act be transferred to the control and jurisdiction of the Police Jury of the parish in which said road district is located, and the said Police Juries or Supervising Board, if one there be, will automatically and without further procedure fulfill the contracts and obligations of said road districts, assume immediately its duties as the governing authority thereof and make such provisions for the administration of the affairs of such road districts as are requisite and necessary without further provisions or notice, and assume all the duties and powers of all boards of supervisors of said road districts and fulfill the duties of the governing body without interruption of the business or duties thereof, provided, however that the contracts and obligations of each road district in this State will be fulfilled and carried out as entered into during the existence of said road district, and all of the documents, books, minutes or papers of said road districts shall be transferred to the Secretary or clerk of the Police Jury as the official custodian of all records of the various road districts of the various parishes in the State, and that the funds into the Treasury of the various road districts or sub-road districts shall be transferred to the Parish Treasurer it being the purpose of this Act to make the Police Juries and Supervising Board, if one there be, of the various parishes succeed to the rights, duties and obligations of all boards of supervisors of the various road districts of this State and to assume all the obligations incurred by said boards of supervisors, said obligations to be fulfilled and carried out with absolute good faith by the police jury and Supervising Board, if one there be, thus succeeding and without interruption and that in every case where any proceeding or procedure shall have been begun by the Board of Supervisors of any road district the same shall be completed by the Police Jury and Supervising Board, if one there be, as the governing authority as though no change in the law had ever taken place.

**CONFIRMATION OF BOND ISSUES.**

**Sec. 14.** Be it further enacted, etc., That any bonds authorized by any of the road districts of this State or by any of the parishes, for road purposes, whether such bonds shall have been authorized by the entire parish or shall have been authorized by any portion of the parish, under the authority of an election called by the police jury thereof, and said bonds having been authorized by a majority in number and amount of the property taxpayers voting at an election properly called for that purpose, be and the same are hereby approved, ratified and confirmed, and any bonds in any road district authorized by virtue of the authority of an election called and held by a board of supervisors, composed of the member or members of the Police Jury, the member or members of the School Board and property taxpayer and elector residing in the district duly elected by the Police Jury, are hereby approved, ratified and confirmed and their validity shall not be questioned; and provided that all road districts created by the Police Jury under previous laws are hereby approved and confirmed as though created by the Legislature itself and the validity of this creation shall not be subject to attack.

**REPEALING CLAUSE.**

**Sec. 15.** Be it further enacted, etc., That all laws or parts of laws in conflict herewith, and particularly Act 183 of 1914 and Act 199 of 1916, be and the same are hereby repealed.

## DRAINAGE OF PUBLIC ROADS.

**Act 21 of 1898, p. 24.**

### TITLE.

**AN ACT** to authorize the police juries, throughout the State of Louisiana, to drain the public roads of their respective parishes, by cutting ditches and canals over and through private property.

Be it enacted by the General Assembly of the State of Louisiana, That the Police Juries throughout the State of Louisiana, shall have the right to drain the public roads of their respective parishes by cutting ditches and canals where necessary, over and through private property; provided that said drains are opened, and provided they shall be located where least injurious to the owner of the property.

## FRANCHISES ON PUBLIC ROADS, ETC.

**Act 5 of 1916, p. 30.**

### TITLE.

**AN ACT** to authorize police juries throughout the State to grant franchises in the public roads, highways, roadways, alleys or places under their administration for the construction of water pipes, sewerage or drainage pipes.

Section. 1. Be it enacted by the General Assembly of the State of Louisiana that authority is hereby granted to the several police juries of the parishes of this State to grant franchises in public roads, alleys or public places under their administration for the construction and maintenance and operation of water pipes, sewerage and drain pipes across, along and underneath the said roads, alleys and public places and to authorize the persons so constructing same to excavate on the said places for the purposes of construction or repairs.

Sec. 2. Be it further enacted, etc., That the several police juries of the parishes in this State are authorized to grant said rights or franchises as stated in Section One upon such conditions and terms as said police juries shall see fit to impose.

## CROSS ROADS MUST BE POSTED.

**Act 205 of 1918, p. 383.**

### TITLE.

**AN ACT** compelling Police Juries throughout the State to post all crossroads in their respective Parishes and repealing all laws in conflict herewith.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That Police Juries throughout the State shall post all cross-roads in their respective Parishes as to indicate the nearest point of local importance to which they lead and the distance thereto.

Sec. 2. Be it further enacted, etc., That all laws in conflict herewith be and the same are hereby repealed.

## RATIFICATION OF PROCEEDINGS—ROAD DISTRICTS.

**Act 18, E. S. 1917, p. 26.**

### TITLE.

**AN ACT** to ratify and confirm all of the proceedings heretofore taken by the police juries of the various parishes of the State of Louisiana, and the board of supervisors of any road district or sub-road district acting under the provisions of the Acts No. 183 of the General Assembly of the State

of Louisiana approved July 9, 1914, and No. 199 of the General Assembly of the State of Louisiana approved July 6, 1916, whereby said police juries and said board of supervisors of road districts or sub-road districts were authorized to incur debt and to issue negotiable bonds therefor and to levy special taxes to pay the principal and interest thereof by virtue of the provisions of said Acts of the Legislature, and to legalize, ratify and confirm all ordinances and proceedings adopted by said police juries and said board of supervisors of road districts or sub-road districts providing for elections, submitting to the qualified electors of the said road districts or sub-road districts, propositions for authority to incur debt, to issue negotiable bonds therefor, and to levy said special taxes under said Acts of the Legislature; all notices of the said elections and the elections held thereunder, and the votes cast and the voting thereat, resulting in favor of the proposition submitted as aforesaid, and to authorize the creation of the debts, issue of the bonds and the levying of the taxes proposed at said elections as well as any and all proceedings relative thereto had or taken by said police juries and said board of supervisors of road districts or sub-road districts.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That all of the proceedings heretofore taken by the police juries throughout the State and the board of supervisors of road districts or sub-road districts to incur debt and to issue negotiable bonds therefor, and to levy special taxes to pay the principal and interest thereof, by virtue of the provisions of Act No. 183 of the General Assembly of the State of Louisiana approved July 9, 1914, and Act No. 199 of the General Assembly of Louisiana, approved July 6, 1916, and all ordinances adopted by said police juries and by the board of supervisors of any road district or sub-road district, providing for elections submitting to the qualified electors therein, propositions for authority to incur debt and to issue negotiable bonds therefor and to levy special taxes to pay the principal and interest thereof, under the provisions of the aforesaid Acts of the General Assembly of Louisiana; all notices of said elections held thereunder, the votes cast and voting thereat resulting in favor of the propositions submitted as aforesaid, as well as all other proceedings had or taken by said police juries and said board of supervisors of any road district or sub-road district pretending to act under the provisions of the Acts of the Legislature hereinabove referred to, be and are hereby recognized as taken, given, held and cast in compliance with the requirements and with full authority of law, and that the same be, and are hereby ratified, and confirmed as legal, and that said police juries and the board of supervisors of such road districts or sub-road districts, be and they are hereby authorized and empowered to incur the debt, issue the bonds, and levy the taxes provided for in the proceedings taken, ordinances adopted, elections held and voted for as aforesaid.

**Sec. 2.** Be it further enacted, etc., That this act shall take effect from and after its passage.

## POLICE JURY AS LIVE STOCK SANITARY COMMISSIONERS.

**Act 147 of 1894, p. 185.**

### TITLE.

AN ACT constituting the police juries of the different parishes of the State Live Stock Sanitary Commissions, with authority to enact, and enforce ordinances, and regulations for the suppression of glanders, farcy, and other contagious or infectious diseases, afflicting live stock.

### ORGANIZATION OF COMMISSION—PURPOSE.

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of each and every parish in the State of

Louisiana, is hereby empowered to organize and act as a Live Stock Sanitary Commission with authority to enact and enforce ordinances and regulations for the suppression of glanders, farcy, and other contagious and infectious diseases affecting live stock as may seem needful and necessary, and it shall be the duty of said Police Juries acting as Live Stock Commissions when in their judgment it is necessary to employ a veterinary surgeon to co-operate with them in determining whether or not there exists contagious diseases among live stock of their respective parishes and whenever in the opinion of said commission and veterinary surgeon the public safety demands the destruction of any animal or animals, affected with an incurable, contagious or infectious disease, then such killing shall be done under the order and direction of said commission and veterinary surgeon, and without compensation to the owner or owners of such animals.

**DUTY OF OWNERS OF SUSPECTED ANIMALS TO REPORT.**

Sec. 2. Be it further enacted, etc., That it shall be the duty of any person who discovers or suspects or has reason to believe that any domestic animal belonging to him or in his charge or that may come under his observation belonging to others is affected with any contagious disease to without delay, report such fact or belief to the police jury member of his ward, and to the president of the police jury, and any person or persons as above specified who shall neglect or refuse to notify the proper authorities as above specified and designated of the existence of any contagious or deadly disease that may have been brought to his knowledge shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than ten nor more than one hundred dollars, or be imprisoned and worked on the public roads not less than ten nor more than ninety days or both at the discretion of the court.

**OBSTRUCTION VIOLATION—PENALTY.**

Sec. 3. Be it further enacted, etc., That any person who wilfully hinders, obstructs or otherwise disregards or evades such sanitary regulations as provided for in this act, or violates any of the rules and regulations that may be enacted in any of the parishes as herein authorized for the restriction and stamping out of any disease among live stock as aforementioned, or who will resist the orders of the parish live stock commission or any officer acting under authority of same in the discharge of their duty shall be guilty of a misdemeanor and upon conviction shall be punished in the same manner as provided in the preceding section.

**BRINGING DISEASED ANIMALS INTO STATE.**

Sec. 4. Be it further enacted, etc., That any person who knowingly shall bring into any parish of this State of Louisiana any animal affected with any contagious disease such as glanders, farcy or any animal which has been exposed to any such disease shall be guilty of a misdemeanor, and on conviction of same shall be fined in a sum not less than one hundred nor more than five hundred dollars, with the addition of all damage that may have occurred in consequence of such importation.

**REPEALING CLAUSE.**

Sec. 5. Be it further enacted, etc., That this act be enforced from and after its passage and that all laws in conflict herewith are repealed.

**CREATION OF NAVIGATION DISTRICTS.**

**Act 302 of 1914, p. 616.**

**TITLE.**

AN ACT to authorize the police juries of the several parishes of the State, the Parish of Orleans excepted, to create Navigation Districts; making it mandatory on police juries under certain conditions to create such districts; to fix the limits thereof; to provide for boards of commission-

ers therefor; and the number of members thereof respectively; to define the qualifications of the members; to prescribe for their selection, their tenure of office, their duties and the manner of filling vacancies; to authorize the creation of Navigation Districts consisting of lands in more than one parish by joint action of the Police Juries thereof; to provide the mode and manner of selecting the members of the Board of Commissioners of such Navigation Districts; to make the respective Boards of Commissioners of said Navigation Districts a corporate body; to invest them with names or denominations; to empower them to adopt such rules and regulations as may be necessary to carry on the affairs of said Navigation Districts; to fix their domicile; to provide for modes of service in case of suit; to provide for time and place for the organization of said boards, as well as for the officers thereof; to empower them to select their own officers and fix their salaries; to define the duties of said officers; to authorize and empower them to open, widen and deepen streams; to construct new canals; to secure rights of way by expropriation or otherwise; to issue bonds when authorized so to do by a vote of property taxpayers; to provide for all elections appertaining to said Navigation Districts; the levying of taxes and the issuing of bonds by the same, conformable to the provisions of Article 281 of the Constitution of 1913 of Louisiana; to authorize and provide for said Navigation Districts; to levy contributions upon their respective lands when said Navigation Districts do not avail themselves of the provisions of this Act relative to the assessment and collection of taxes; to authorize co-operation between Navigation District and another Navigation District or Districts, Drainage Districts, private individuals, Associations and Corporations, or the State or Federal Government or any or all of such and to fix the ownership of such work; to provide for the assessment of property in said Navigation Districts; to prescribe the powers and duties of Assessors for the same and to fix their compensation therefor; to provide for the collection of taxes of said Navigation Districts; to prescribe the tax penalties and the mode and manner of proceeding for their collection; to provide for the meetings of the said Board of Commissioners of said Navigation Districts and the payment of the expense of their administration; to give full power to the Navigation Commissioners to control the navigation and improvement work within their District, right to acquire the fee simple of all canals; and to acquire all machinery necessary for the carrying on of the work; and authorizing Navigation Districts to purchase land at tax sale.

#### **DIVISION OF PARISH INTO NAVIGATION DISTRICTS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the police juries of the various parishes of the State of Louisiana are authorized and empowered, upon their own initiative to divide their respective parishes into one or more navigation districts. Such district to be known as navigation districts with such other name or number as the police jury may designate; provided that no such district shall contain, within its limits, less than five land owners.

#### **GOVERNMENT BY NAVIGATION COMMISSIONERS.**

**Sec. 2.** Be it further enacted, etc., That all navigation districts formed or created under the provisions of this Act, shall be governed and controlled by five commissioners to be known as "Navigation Commissioners" who or whose wives shall be assessed with at least Five Hundred Dollars worth of real estate in said district and any land owner in such district to the assessed value of five hundred dollars may be a navigation commissioner of such district; whether he be a resident or a non-resident of the district, provided he be a citizen of the State.

#### **THREE COMMISSIONERS FOR EACH DISTRICT.**

**Sec. 3.** Be it further enacted, etc., That the police juries organizing such navigation districts shall appoint three commissioners in each district,

except when otherwise provided herein, two of said commissioners for a period of two years and one for the term of four years, and all selections or appointments by the said police jury thereafter, shall be for a period of four years. The remaining two commissioners shall be appointed by the Governor for the period of four years. The appointment of commissioners by the police jury shall be made upon the recommendation of a majority in number of acres or a majority of the resident land owners in such district, where the district contains forty or less land owners. Where the district has more than forty land owners embraced therein, then the appointment shall be made upon the recommendation of twenty-five of the land owners of said district. When there is a contest over the appointment of commissioners, the police jury shall give the appointment to those commissioners who are recommended by land owners owning the greatest number of acres of land in said district, or who are recommended by a majority of the resident land owners in such district, in the discretion of the police jury.

**DISTRICTS COMPOSED OF LANDS IN MORE THAN ONE PARISH.**

Sec. 4. Be it further enacted, etc., That when the necessity of any locality is such that, in the opinion of the police juries of the respective parishes, it becomes necessary to organize or create navigation districts composed of lands situated in adjoining parishes, then that such navigation districts may be created by joint resolution of the police juries of the respective parishes, or by an ordinance to that effect, passed by the police jury of one parish and approved by the police jury or juries of the other parish or parishes; and in the event of the creation of such navigation district, then the commissioners shall be appointed or selected as aforesaid, two by the Police Jury of the parish which has the greatest assessment in said district, and one by the police jury of the other parish; when portions of three parishes are included, each parish shall have one commissioner; provided that when portions of more than three parishes are embraced in one district then the said commissioners shall be apportioned one to each parish, according to the greatest assessment furnished by each, who, together with the two commissioners appointed by the Governor, shall constitute the Commission of said navigation district, and shall hold their term of office as provided for in this act; provided, however, that instead of the police juries naming the terms of office of each commissioner, this shall be determined by the commissioners themselves by drawing lots for the long and short terms. After said lots are drawn the result shall be made known to the respective police juries as to who will serve the long term and who will serve the short term. Failure or refusal by a commissioner to perform any or all of the duties prescribed by this Act, shall be good cause for removal. It is not necessary for the land in every parish to touch the land in every other parish in the district, provided that the district be composed of land all in one body.

**FORMATION OF DISTRICTS ON PETITION OF PROPERTY OWNERS.**

Sec. 5. Be it further enacted, etc., That upon the failure or refusal of any of the police juries of any of the parishes of the State to organize navigation districts when needed, or on the failure of one or more police juries to organize navigation districts of the lands composed partly of the parishes of each, they are hereby required to form a navigation district when petitioned to do so by a number of the property owners representing a majority of the acres of land in said district or by a majority of the resident landowners in said district, that in presenting such petition to the police jury or police juries, such petition shall set forth substantially the boundaries of the district which is proposed to be organized.

**NAVIGATION DISTRICT CONSTITUTES BODY CORPORATE.**

Sec. 6. Be it further enacted, etc., That any navigation district thus created and named and numbered by any police jury of any parish of the State, or by the joint action of the police juries of any two or more adjoining parishes as aforesaid, shall constitute a body corporate in law, with all the powers of a corporation; shall have perpetual existence; shall have the

power and right to incur debt and contract obligations; to sue and be sued; to have a corporate seal and to do and perform any and all acts in its corporate capacity and in its corporate name, necessary and proper for the carrying out of the purposes and object for which the navigation district was created. Such navigation district shall also have the power of expropriating property for the purpose of acquiring land for any purpose that it may find necessary. Such navigation district shall also have the power to acquire any machinery whatever that may be found necessary for the purpose of effecting the object for which formed and shall own the right of way for canals and all sites which are acquired either by donation, purchase or expropriation in full ownership. The navigation commissioners of a navigation district for the purpose of securing a proper outlet for the district they represent, shall have authority to extend canals, beyound the limits of their respective districts with the same power and authority of expropriating the rights of way in the same manner and to the same extent as if such canals were wholly within the district they represent.

Navigation districts may co-operate with other navigation districts, with drainage districts, or with the State or Federal government, or private individuals, associations and corporations or with any or all of them as in their judgment may seem advisable.

The police juries creating navigation districts as aforesaid, with corporate powers, shall designate the domicile of such corporation, at which domicile it shall be sued and service of citation made on the president, either in person or on some person in charge of the office. Provided, in fixing the domicile the police jury shall at all times fix the same within the district when practicable. When it is impracticable to fix the domicile in the district then it shall be fixed as near the district as is practicable and convenient.

#### **MEETINGS OF COMMISSIONERS, OFFICERS.**

Sec. 7. Be it further enacted, etc., That in the creation of navigation districts and the appointment of commissioners, as provided for in Sections 1, 2 and 3 of this act, the police juries shall, at the same time, designate a time and place for said commissioners to meet, and immediately after such meeting the said commissioners shall proceed to organize by electing officers as follows: First, they shall elect from among their number a president and a vice-president. It shall be the duty of the president to preside over the meeting of the board and to perform such other duties as are usually required of presidents of corporate bodies. It shall be the duty of the vice-president to act in the absence of the president in case of absence or disability.

Second. They shall elect a secretary and treasurer who shall furnish bond in the sum fixed by the board, whose salary shall not exceed fifty dollars per month, and who shall perform all duties required of him by the board of commissioners.

Third. They shall select one of the solvent chartered banks of the State, where all moneys shall be deposited, which bank shall pay interest at not less than 3 per cent. per annum on all deposits of said navigation district or the parish or parishes in which it is located, shall be selected if possible.

#### **POWER OF BOARDS.**

Sec. 8. Be it further enacted, etc., That said Navigation Board or Commissioner shall have the power with the consent of the Federal government and it shall be their duty to open, widen and deepen all streams which they may deem necessary in their respective districts, and to perform all work connected therewith, which they may deem necessary to make the same effective. They shall also have power to cut and open canals, wherever deemed necessary. They shall have the further power as hereinbefore provided, to improve the entire district or by any means whatever they deem most advantageous to effect the object for which they are formed. In order to carry out this navigation work the navigation commissioners are

specially authorized to enter into contracts for the performance of such work, or to purchase machinery and have the work performed under their supervision, and to perform all other acts necessary to fully improve their said district and maintain such improvements when established.

**MAY LEVY TAXES.**

Sec. 9. Be it further enacted, etc., That in order to carry out the provisions of this act, the commissioners appointed or selected as aforesaid shall have the power to provide the funds necessary therefor by levying any tax or forced contribution which is now or may hereafter be authorized by the Constitution and laws of this State.

**FORMATION OF NEW DISTRICT ON REFUSAL TO SECURE DEBT, ETC.**

Sec. 10. Be it further enacted, etc., That any navigation district organized under the provisions of this act, the property taxpayers of which shall have rejected a proposition to secure debt, issue bonds or levy a tax for navigation purposes at an election held for that purpose, or if the validity of any navigation district has been questioned, or its right to call an election, levy and assess taxes, incur debt or issue bonds, as contemplated by Article 281 of the Constitution, has been assailed or questioned by a suit, and a decision of the Supreme Court of Louisiana has been rendered adverse to said district, or the right of the commissioners therein to call an election, incur debts, issue bonds and levy taxes as aforesaid, then the police jury or police juries of the parish or parishes in which said navigation district is situated shall have authority to reorganize said navigation district, either by increasing or diminishing the limits thereof, or dissolving said district and forming a new district out of the same territory or a portion thereof, or change the same in any manner authorized and contemplated by the provisions of this act, to exercise the same authority as if said police jury or juries were organizing a new navigation district. When such contingency arises as herein contemplated, the commissioners of the old district shall become functus officio and the Commissioner shall be appointed for the district in the same manner as contemplated in Section 2 of this Act.

**ASSESSMENT OF PROPERTY FOR SPECIAL TAX.**

Sec. 11. Be it further enacted, etc., That the assessors of the various parishes throughout the State in which navigation districts are in whole or in part located, shall assess all property subject to State taxation under existing laws in said navigation district, for the purpose of special navigation tax where the same has been voted, and shall, after said assessment is completed, make in triplicate an assessment roll which shall be styled "Assessment Roll for Navigation Districts." (here give name and number of the district). The original of this roll shall be filed with the Clerk of the District Court of the parish or parishes in which the said navigation district is situated; a copy with the Sheriff and tax collector, which shall be his warrant for collecting the taxes, and the other with the commissioners of the navigation district. The assessor making the assessment roll shall receive as compensation for such service the fees fixed by law on all ad valorem taxes, which shall be paid him by the Navigation District, when the triplicate rolls are completed and filed as herein required. He shall list and assess all property in such district in the same manner as is required by law for state and parochial assessments. When said listing and assessment has been completed the Navigation Commission or a committee therefrom shall have the power and it shall be their duty to appear before the Police Jury or Juries of the parish or parishes in which the district is situated, sitting as a Board of Reviewers and to urge any correction or change in any assessment in said district and insist upon the Police Jury making any corrections or change in any manner that the Police Jury sitting as a Board of Reviewers, are now authorized to make in assessments under existing laws. In order that such Board of Commissioners may secure a correct list of all property situated in their respective districts, and the actual

cash value thereof, they shall have the right to employ at a fair compensation a person or persons for the purpose of listing the property in said districts and placing the cash value thereon, which listing and valuation shall be admitted in evidence and considered by the Court upon any contest as to the value of any property assessed.

#### **CONSTITUTION AND GENERAL LAW REGULATE TAXATION.**

Sec. 12. Be it further enacted, etc., That all the articles and provisions of the Constitution of 1913, or as subsequently amended, and all laws in force or that may be hereafter enacted, regulating and relating to the collection of taxes, and the creation of tax liens and mortgages, tax penalties and of sales, shall also apply to and regulate the collection of the special tax which may be imposed under the provisions of this Act, same to be collected through the Sheriff and ex-officio Tax Collector for said parish, at the same time and in the same manner that he collects the State and parish taxes and the same shall be by him turned over to the treasurer of said Navigation District. The said Tax Collector or Tax Collectors shall make monthly settlements with the treasurer of said navigation districts as aforesaid and receive from him a receipt for the amount of taxes paid to him, and, when all taxes shall have been collected for the current year, the said Tax Collector shall make a final settlement with the Navigation Commissioner in the same manner as tax collectors are required to settle with the Auditor of the State of Louisiana. And when said final settlement is made, and all the taxes assessed in said Navigation District are collected and paid in or accounted for by delinquent or deduction lists as is contemplated and accepted by the Auditor of Public Accounts in the Collection of State Taxes, then the said Navigation Commissioner shall give the said Tax Collector or ex-officio Tax Collector a quietus in full for the taxes for the year. Said Tax Collectors or ex-officio Tax Collectors shall receive for all services rendered in collecting and paying over the tax herein provided for one-tenth of one per centum on the amount collected and paid in. Upon the failure of such collector to comply with the provisions of this Act, the Board of Commissioners of the Navigation District shall have the authority and it shall be their duty to forthwith proceed against said Tax Collector, or sheriff and ex-officio Tax Collector and the sureties on his official bond as Tax Collector for the collecting of whatever amount that may be due to said navigation district.

#### **MEETINGS OF COMMISSIONERS; EXPENSES, HOW PAID.**

Sec. 13. Be it further enacted, etc., That the Commissioners of Navigation Districts, appointed under the provisions of this Act, may meet as often as they deem it necessary provided they shall hold at least one meeting in every year. All expenses of the administration of said Board, salaries of officers, etc., shall be paid out of any funds in the hands of the Treasurer belonging to said District, when the items, bills, salaries or expenses shall have been approved at a regular meeting of the Board of Commissioners, provided that the Commissioners themselves shall not be allowed any compensation for their services as members of said Navigation Board, but may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their appointment.

#### **COMMISSION CAN HAVE ABSOLUTE CONTROL.**

Sec. 14. Be it further enacted, etc., That the Navigation Commissioners of a Navigation District shall have absolute control over the work of their district.

#### **POWER TO LOCATE CANALS.**

Sec. 15. Be it further enacted, etc., That the Commissioners of Navigation Districts, especially in that portion of the districts which may be uninhabited, shall have the power in locating canals for said districts to also lay out public roads and build the same in constructing the work of the district and the commissioners shall at all times have free ingress and egress to and from all lands in the Navigation District.

**SALE OF PROPERTY FOR TAXES; RIGHT OF COMMISSION TO BUY.**

Sec. 16. Be it further enacted, etc., That if in the enforcement of the collection of taxes assessed against the lands within the Navigation Districts, it becomes necessary to sell said property for the payment of said tax or forced contribution, then the Navigation Commissioners of such navigation Districts shall have the right to purchase such lands at tax sale and acquire a good and valid title thereto, in the same manner and to the same extent as any individual, which property when thus acquired, shall become the property of the Navigation District and may be disposed of by the Navigation Commissioners, who shall have authority to make valid title thereto after the redemption period has expired.

**DRAINAGE DISTRICTS.**

**Act 317 of 1910, p. 542.\***

**TITLE.**

AN ACT to amend and re-enact Act 159 or the Acts of the General Assembly of the State of Louisiana of the year 1902, as amended by Act 135 of 1906, which Act 159 of 1902 as amended by Act 135 of 1906, which Act 159 of 1902 is an Act entitled "An Act to amend and re-enact Act No. 12 of the Acts of the General Assembly of the State of Louisiana of 1900, entitled "An Act to authorize the police juries of the several parishes of the State, the Parish of Orleans excepted, to divide their respective parishes into Drainage Districts, to fix the limits thereof, to provide for Board of Commissioners therefor, and the number of members thereof, respectively; to define the qualifications of the members, to prescribe for their selection, their tenure of office, their duties and the manner of filling vacancies; to authorize the creation of Drainage Districts, consisting of lands in adjacent parishes by joint action of the police juries of such parishes; to provide for the mode and manner of selecting the members of the Board of Commissioners of such Drainage Districts, to make the respective Boards of Commissioners of said Drainage District a corporate body; to invest them with names or denominations; to empower them to adopt such rules and regulations as may be necessary to carry on the affairs of said Drainage Districts; to fix their domicile, to provide for mode of service in case of suit; to provide for the time and

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\*Note. The title of Act 317, 1910, reads as printed. By Act 227, 1914, p. 424, a large number of the sections were amended, and the title was enlarged, so as to include and cover the new matter inserted by the act. The title of the Act of 1914 does not mention an amendment of the title of the Act of 1910, it therefore is printed as it originally stood, the additions made to the title of the Act of 1910 by the Act of 1914 read as follows: "So as to further enlarge the powers of the Drainage Commission, authorize the changing of lines of drainage districts and increasing or diminishing the territory under certain conditions, and declare that all Drainage Districts thus enlarged and bonds issued therein are valid and existing districts; ("districts" is the word used, Ed.) to change the qualifications of Drainage Commissioners and declare that Drainage Commissioner may hold more than one position of Drainage Commissioner, or hold it in connection with any other office; authorizing Drainage Commissioners to change the domicile of the Drainage District after publication; to provide for the adjudication of lands to the State of Louisiana in default of any other purchaser at tax sale and to authorize the Registrar of the State Land office to take possession of and rent and dispose of said lands; authorize the appointment of a committee to control the reclamation work, defining their powers and duties; to authorize the issuing of bonds against and the levying of any acreage tax or forced contribution upon lands belonging to the State or political subdivisions thereof; giving authority to the Governor and the governing authorities of the subdivision to sign the petition for the purpose of having such lands reclaimed; enlarging the duties and powers of drainage commissioners, for the purpose, among others, of the issuance of bonds under Art. 281 of the Constitution as amended by Joint Resolution No. 70 of the General Assembly of 1914, and specifying what charges can be made by the Board of State Engineers against such districts, and fixing the limit of the cost of engineering work; authorize the issuing of bonds at different times and fixing limit of such issue; authorizing the adjudication of the property to the State under certain conditions, and declaring bonds issued under the acts to constitute a contract. (The title is sufficiently broad to cover the provisions of the act. Goguenham vs. Avoca Drg. Dist., 130 La. 323.)

place for the organization of said Boards as well as for the officers thereof; to empower them to select their own officers and fix their salaries; to define the duties of said officers, to authorize and empower them to open natural drains, to construct new drains and canals; to secure rights of way by expropriation or otherwise; to issue bonds when authorized so to do, by a vote of property tax payers; to provide for all elections appertaining to said Drainage District; the levying of taxes and the issuing of bonds by the same, conformably to the provisions of Act No. 5 of the Extra Sessions of 1899 of the General Assembly of the State of Louisiana and to Article 281 of the Constitution of 1898 of the State of Louisiana; to authorize and provide for said Drainage Districts; to levy contributions upon their respective lands when said Drainage Districts do not avail themselves of the provisions of this Act relative to the assessment and collection of taxes; to authorize and empower contiguous Drainage Districts or Drainage Districts and Municipal Corporations to jointly construct work necessary for drainage and to fix the ownership of the same; to provide for the assessments of property in said Drainage Districts; to prescribe the powers and duties of Assessors for the same and to fix their compensation therefor; to provide for the collection of the taxes of said Drainage District; to prescribe the tax penalties and the mode and manner of proceeding to their collection; to provide for the meetings of the said Board of Commissioners of said Drainage Districts and the payment of the expenses of their administration; to authorize Drainage Districts organized under existing laws to reorganize under the provisions of this Act, to prescribe the rights, duties and obligations of such Drainage Districts so reorganized; to authorize Drainage Districts reorganized under the provisions of this Act to order and hold elections, to ratify the issue of bonds provided for by the superceded Drainage Districts; to issue additional bonds, to constitute such ratification and additional issuance as one series, to provide for the payment of said bonds in principal and interest; to invest said bonds with equal rank, to provide for the continuance of Drainage Districts under existing laws, to provide a penalty for any injury to work and drains herein provided for; to provide for the repeal of all laws conflicting herewith so far as they appertain to Drainage Districts, so as to further enlarge the duties and powers of Drainage Commissioners; authorizing the formation of sub-drainage districts, making provisions relative to the disposition of State Lands and the payment of taxes belonging to the School Board in such districts; authorizing the drainage of lands by leveeing and pumping, and maintaining of such drainage system by the levying of an acreage tax or forced contribution; requiring the State Board of Engineers or one of their number to render assistance to any Drainage District when requested to do so; authorizing the issuing of bonds by Drainage Commissioners in amount sufficient to drain the lands, after ascertaining the cost; to prohibit the levying of any other acreage tax upon the unreclaimed lands until reclaimed and in cultivation; to give full power to the Drainage Commissioners to control the drainage of all lands within their district; right to acquire the fee simple of all canals, ditches, pumping stations, and to acquire all machinery necessary for the carrying on of the work of the drainage of the land, to give the Drainage Board perpetual existence, authorizing the land owners of Drainage Districts to ratify the proceedings in levying taxes or forced contributions, and forever barring rights of action to contest the validity of the tax after said ratification and fixing the time in which persons interested may contest the validity of the tax; authorizing Drainage Districts to purchase land at tax sale, and repealing all laws or parts of laws which are in conflict herewith applicable to Drainage Districts.

#### MAY DIVIDE PARISH INTO DRAINAGE DISTRICTS.

Section 1. (As amended by Act 225, 1916, p. 483.) Be it enacted by the General Assembly of the State of Louisiana, That the Police Juries of

the various Parishes of the State of Louisiana are authorized and empowered upon their own initiative to divide their respective Parishes in one or more drainage districts, such district to be known as drainage district with such other name or number as the Police Jury may designate, provided, that no such district shall contain within its limits less than five land owners; and provided further that the Police Jury with the concurrence of the Drainage Commission may at any time prior to the incurring of debt, issuing bonds or levying a tax based upon the vote of the property owners in such drainage district, change the boundaries of such drainage district so as to enlarge or diminish same, or to repeal entirely the ordinance creating the drainage district.

Provided further—That the boundaries of gravity drainage or sub-drainage districts created under the provisions of this act may be changed at any time so as to enlarge such drainage or sub-drainage district and additional lands included therein notwithstanding that prior thereto bonds have been issued, debt incurred and a tax levied based upon the vote of the property owners in such drainage or sub-drainage district upon a petition in writing executed by the owners whether residents or non-residents owning at least two-thirds (2/3) of the acres of the additional land to be included, and a like number of petitioners of the territory already included in such drainage or sub-drainage district; that the enlargement of such drainage or sub-drainage district shall not in any manner affect the bonds that have been issued and are then outstanding against the property situated in said drainage or sub-drainage district, nor the tax that has been voted by the property owners in such drainage or sub-drainage district for the purpose of paying the principal and interest of such bonds according to the terms and conditions thereof; but the said tax shall be collected and the proceeds thereof used to pay the principal and interest of such bonds and the liquidation of such debt the same as though the enlargement of such drainage district had not been made, or may refund and retire such bonds from the proceeds of any bonds that such drainage or sub-drainage district may issue after such district has been enlarged. In order to provide funds to pay the cost of constructing and maintaining a drainage system or to pay and retire the principal and interest of any bonds that may be outstanding against such drainage or sub-drainage district, for either one or all the aforesaid purposes, the Board of Drainage Commissioners shall have the authority, after being authorized by a vote of the property taxpayers in said drainage or sub-drainage district at an election held in accordance with the provisions in that respect contained in the Constitution and laws of the State of Louisiana to levy and collect an acreage tax or forced contribution per annum on each and every acre of the land composing said drainage district before the enlargement thereof, and a tax for a like amount per acre per annum on each and every acre of the land added to said drainage district by the enlargement thereof susceptible to gravity drainage, or may levy and collect an ad valorem tax on the taxable property in such drainage or sub-drainage district, provided that such acreage tax or forced contribution shall not exceed the constitutional limit of fifty cents per acre per year, or if an ad valorem tax be levied the same shall not exceed the constitutional limit of ten per cent. of the assessed valuation of the property in such drainage or sub-drainage district, and to incur debt and issue negotiable bonds secured by the acreage tax or forced contribution or ad valorem tax as hereinbefore provided, and to sell the bonds thus issued at a price not less than that fixed by the Constitution at the time of such sale and to use the proceeds from the sale of such bonds to construct and maintain a drainage system in said drainage or sub-drainage district; or to pay and retire the principal and interest of any bonds that may be outstanding against such drainage or sub-drainage district, and provided further that when any bonds are issued under the provisions of this act, a certified copy of the proceedings of the Board of Drainage Commissioners authorizing the issuing of said bonds and the levy of the tax to pay the same shall be published and promulgated in two consecutive issues of the official journal and thereafter shall be recorded in the mort-

gage records of the parish or parishes where the drainage or sub-drainage district is located, and shall be registered with the Secretary of State who shall also be furnished with a copy of the official journal publishing the proceedings; and further provided that in order to fully comply with the due process of law every taxpayer in said Drainage or Sub-Drainage District, whether resident or non-resident, and every other person interested, shall be allowed a period of sixty days in which to file any contest over the benefits to accrue from the drainage or over the validity, legality or constitutionality of the proceedings leading up to and including the levy of said tax, or to the said bond issue, and after the lapse of the said sixty days reckoning from that date of the last publication and promulgation of the proceedings as hereinbefore provided and upon the production of a certificate from the clerk of court of the parish or parishes where the drainage or sub-drainage district is situated; that there is no litigation pending on the docket of said court affecting said bond issue in any manner, or the proceedings leading up to the levy of tax or issue of bonds, the Secretary of State shall sign and seal the following certificate;

Incontestable ..... Secured by Tax  
Registered this ..... day of .....

(Seal)

Secretary of State."

And seal said bonds without making any charge therefor, all bonds issued under the provisions of this act and so registered shall constitute a binding and irrevocable contract between the holder or holders of said bonds and the drainage or sub-drainage district issuing the same and they will be protected by every constitutional guarantee of good faith, and every taxpayer in said drainage or sub-drainage district whether a resident or non-resident and every other person interested is, after the lapse of the said sixty (60) days irrevocably estopped from setting up any defense to the levying and collecting of said tax, or to the issuing of the bonds secured thereby, or to any of the proceedings leading up to and including the authorization to levy and collect said tax and issue said bonds; and no court shall have jurisdiction to entertain any suit to contest the validity or legality of said bonds or of any proceedings leading up to and including the issuance of said bonds or the levying and collecting of the tax provided for the payment of such bonds.

In all cases where drainage districts have been or will be organized by the action of the police juries under the provisions of this act, and the drainage commissioners should deem it expedient, or necessary for the better drainage of the district, to divide the same into sub-drainage districts, they shall have the right to do so by a simple resolution to that effect, defining the limits of such sub-drainage district. Such sub-drainage district may be increased or diminished, and the boundaries thereof changed, by a simple resolution of the board of drainage commissioners, if such action is taken prior to the authorization to issue bonds or levying of a tax in such sub-drainage district based upon a vote of the property taxpayers in such sub-drainage district. If, however, such sub-drainage district is created for the purpose of reclaiming lands that must be levied and pumped in order to be drained and reclaimed, then the limits of such district may be changed at any time and other lands included therein, upon the petition of at least two-thirds (2/3) of the acres represented by owners owning the additional territory to be included and a like number of petitioners of the territory already included in such sub-drainage district shall not in any manner affect any bonds that may have been issued against the property situated in said sub-drainage district, and the board of drainage commissioners shall have the authority to issue bonds for a like amount per acre upon the additional property embraced in the drainage district and to levy an acreage tax or forced contribution to pay the interest and principal of such bonds, together with the maintenance of the drainage district; and all such bonds when thus issued shall be issued upon the same terms and conditions and shall be equal in every respect to the bonds already issued and shall be regarded as one issue all resting

upon the same sub-drainage district, and there shall be no preference or priority given or distinction made on account of some of the bonds of the district having been issued prior to the issuing of others. Such sub-drainage district shall be composed of, and acreage taxes shall be levied on lands only that are especially benefited by the particular reclamation or drainage that is proposed to be inaugurated for the purpose of draining the same and may be composed entirely of the lands of one individual or corporation. That all sub-drainage districts the boundaries of which have been enlarged and bonds issued upon the additional land embraced therein are hereby declared to be valid and existing sub-drainage districts, and such bonds are hereby declared to be valid and binding obligations of the district and incontestable for any cause after sixty (60) days have expired from the date of the promulgation of the proceedings evidencing the issuing of said bonds.

**COMMISSIONERS FOR DISTRICT QUALIFICATIONS.**

Sec. 2. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That all drainage districts formed or created under the provisions of this act shall be governed and controlled by five commissioners. These commissioners, or their wives, must be assessed with real estate in the district to the value of Five Hundred Dollars (\$500.00), or they must be the representative of some corporation owning lands in the district to the value of Five Hundred Dollars (\$500.00); such representative of a corporation may be an officer thereof or may be designated to represent the corporation by resolution of the board of directors to that effect, and persons possessing such qualifications may be drainage commissioners, whether they be residents of non-residents. A drainage commissioner may hold the position of drainage commissioner in one or more drainage districts, and may hold such position in addition to any other office that may be held by him, and such holding of the position of drainage commissioner shall not be considered in contemplation of law as dual office holding.

**THREE COMMISSIONERS FOR EACH DISTRICT.**

Sec. 3. Be it further enacted, etc., That the police juries organizing such drainage district shall appoint three commissioners in each district, except when otherwise provided herein, two of said commissioners for the period of two years and one for the term of four years, and all selections or appointments by the said police jury thereafter shall be for the period of four years. The remaining two commissioners shall be appointed by the Governor for the period of four years. The appointment of commissioners by the police jury shall be made upon the recommendation of a majority in number of acres or a majority of the resident land owners in such district, where the district contains forty or less land owners. Where the district has more than forty land owners embraced therein, then the appointment shall be made upon the recommendation of twenty-five of the land owners of said district. Where there is a contest over the appointment of commissioners, the police jury shall give the appointment to those commissioners who are recommended by land owners owning the greatest number of acres of land in said district, or who are recommended by a majority of the resident land owners in such district, in the discretion of the police jury.

**DISTRICTS OF LANDS IN SEVERAL PARISHES.**

Sec. 4. Be it further enacted, etc., That when the drainage of any locality is such that, in the opinion of the police juries of the respective parishes, it becomes necessary to organize or create drainage districts composed partly of lands situated in adjoining parishes, then such drainage district may be created by joint resolution of the police juries of the respective parishes, or by an ordinance to that effect, passed by the police jury of one parish and approved by the police jury or juries of the other parish or parishes; and in the event of the creation of such drainage district, then the commissioners shall be appointed or selected as aforesaid, two by the police jury of the parish which has the greatest area in said

district, and one by the police jury of the other parish; when portions of three parishes are included, each parish shall have one commissioner; provided, that when portions of more than three parishes are embraced in one district, then the said commissioners shall be apportioned one to each parish, according to the greatest area furnished by each, who, together with the two commissioners appointed by the Governor, shall constitute the commission of said drainage district, and shall hold their terms of office as provided for in this act; provided, however, that, instead of the police juries naming the terms of office of each commissioner, this shall be determined by the commissioners themselves, by drawing lots for the long and short terms. After said lots are drawn the results shall be made known to the respective police juries as to whom will serve the long and who will serve the short term. Any commissioner so appointed may be removed for cause by the police jury appointing such commissioner, and those commissioners appointed by the Governor may be removed in like manner by him. Failure or refusal by a commissioner to perform any or all of the duties prescribed by this act, shall be good cause for removal.

**FORMATION OF DISTRICT ON PETITION OF PROPERTY OWNERS.**

Sec. 5. Be it further enacted, etc., That upon the failure or refusal of any of the police juries of any of the parishes of the State to organize drainage districts when needed, or on the failure of any one or more police juries to organize drainage districts of the lands composed partly of the parishes of each, they are hereby required to form a drainage district when petitioned to do so by a number of the property owners representing a majority of the acres of land in said district or by a majority of the resident land owners in said district; that in presenting such a petition to the police jury or police juries, such petition shall set forth substantially the boundaries of the district which is proposed to be organized.

**COMMISSION CONSTITUTES BODY CORPORATE.**

Sec. 6. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That any drainage district thus created and named and numbered by any police jury of any parish of the State, or by the joint action of the police juries of any two or more adjoining parishes, as aforesaid, shall constitute a body corporate in law, with all the powers of a corporation; shall have perpetual existence; shall have the power and right to incur debts and contract obligations; to sue and be sued; to have a corporate seal and to do and perform any and all acts in its corporate capacity and in its corporate name necessary and proper for the carrying out of the purposes and objects for which the drainage district was created. Such drainage district shall also have the power of expropriating property for the purpose of acquiring sites for pumping stations or acquiring land for any other purposes that it may find necessary. Such drainage district shall also have the power to acquire machinery to maintain pumping plants or any machinery whatever that may be found necessary for the purpose of draining or reclaiming any of the lands of the State of Louisiana embraced within their respective drainage districts, and shall own the right of way for canals and ditches, and all sites which are acquired either by donation, purchase, prescription or expropriation, in full ownership. The drainage commissioners of a drainage district for the purpose of securing a proper outlet for the waters of the district they represent, shall have authority to extend canals or ditches, or both canals and ditches, beyond the limits of their respective districts, with the same power and authority of expropriating the right of way in the same manner and to the same extent as if such canals and ditches were wholly within the district they represent.

The police juries creating drainage districts, as aforesaid, with corporate powers, shall designate the domicile of such corporation, at which domicile it shall be sued and service of citation made on the President, either in person or on some person in charge of the office. The domicile of a drainage district, when once established by the police jury, may thereafter

be changed and a new domicile fixed, by a resolution of the drainage commissioners after having declared their intention to change the domicile and notice that that effect having been given by said commission; said notice to be signed by the president of the commission and published for thirty (30) days in the official journal of the parish in which the drainage district is situated. After the publication of such notice, if there is no sufficient reason shown why the said domicile should not be changed, then the drainage commission shall have the authority by resolution to make such change.

**DESIGNATION OF TIME AND PLACE FOR MEETING—OFFICERS—  
BONDS, ETC.**

Sec. 7. (As amended by Act 57, 1918.) Be it further enacted, etc., That in the creation of drainage districts and the appointment of commissioners as provided for in Sections 1, 2, and 3 of Act 227 of 1914, the police juries shall, at the same time, designate a time, and place for said commissioners to meet, and immediately after such meeting the said commissioners shall proceed to organize by electing officers as follows: First, they shall elect from among their number a President and Vice-President. It shall be the duty of the President to preside over the meetings of the board and to perform such duties as are usually required of presidents of corporate bodies; it shall be the duty of the Vice-President to perform the duties of the President in case of his absence or disability.

Second, That they shall elect a Secretary and Treasurer, who shall furnish bond in a sum fixed by the board, but must be fixed for an amount at least one-fourth ( $\frac{1}{4}$ ) over and above any amount that may come into possession of said secretary and treasurer, which bond may be increased or diminished as the said secretary and treasurer shall have under his control more or less money or in such amount as may be fixed in the discretion of the board.

The premiums on such bond executed by the secretary and treasurer shall be paid by the drainage commission. That in all reclamation or pumping drainage districts created and organized under law and which said drainage districts shall comprise and contain twenty-five thousand or more acres, the secretary-treasurer shall receive a salary not exceeding one hundred and twenty-five dollars (\$125.00), per month, and in all other drainage districts with less than twenty-five thousand acres created and organized under law, the secretary-treasurer shall receive a salary not exceeding twenty-five dollars (\$25.00), per month, and the secretary and treasurer shall perform all duties required of him by the board of commissioners.

Third. They shall elect one of the solvent chartered banks of the State, and other things being equal a bank situated in the drainage district or parish or parishes in which the district is situated; in which all moneys shall be deposited, which bank shall pay interest of not less than three per centum (3%) on daily balances, provided a fiscal agent may be chosen who will materially aid the sale of bonds in any drainage district, in which event the said fiscal agent may pay a less rate of interest.

**DUTIES—OPEN DRAINS, ETC.**

Sec. 8. (As amended by Act 227, 1914, p. 424). Be it further enacted, etc., That said drainage board or ("or" is the word in the Act—Ed.) shall have the power and it shall be their duty to open all natural drains which they may deem necessary in their respective districts, and to perform all work connected therewith, which they may deem necessary to make the opening of said natural drains effective. They shall also have power to cut and open new drains or canals, wherever deemed necessary. They shall have the further power, as hereinbefore provided, to divide their districts into subdrainage districts and to drain the entire district or sub-drainage district by leveeing, canalizing and pumping, or by any means whatever they deem most advantageous to drain or reclaim the lands. In order to carry out this drainage work the drainage commissioners are

specially authorized to enter into contracts for the performance of such work, or to purchase machinery and have the work performed under their supervision, and to perform all other acts necessary to fully drain all the lands in their said district or subdrainage district, and maintain such drainage when established.

That the drainage commissioners of any district upon creating a sub-drainage district shall appoint any number not exceeding three property owners, or representatives of property owners, of the said subdrainage district, who may or may not be drainage commissioner of the district, for the purpose of superintending and looking after the work of reclamation and drainage. Such committee shall act under the direction of the drainage commissioners, but shall have full power and authority to conduct the work of drainage and reclamation, maintain such drainage, and make their report from time to time to the drainage commissioners of the district. Such committee shall have power to employ and discharge laborers, to perform ordinary works, to solicit and enter into contracts, provided that any contract in excess of one hundred dollars (\$100.00) must be approved by the board of commissioners of the drainage district in which such sub-drainage district is situated. They shall upon the petition of a majority in acres of the property owners situated in the subdrainage district employ the persons named in the petition as engineers, laborers, etc., that may be necessary to the maintenance of the drainage of the district, and such engineers, laborers, etc., shall be discharged upon the petition of landowners owning two-thirds of the acres of land situated in the said subdrainage district, and in making such selection, other things being equal, preference shall be given to a resident or landowner of the subdrainage district and the term of employment shall be at the pleasure of the landowners and the drainage commission.

#### **COMMISSION HAS POWER TO PROVIDE FUNDS BY TAXATION.**

Sec. 9. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That in order to carry out the provisions of this act relative to the drainage of lands situated in said drainage or subdrainage district as herein provided, the commissioners appointed or selected as aforesaid shall have the power to provide the funds necessary therefor by levying any tax or forced contribution which is now or may hereafter be authorized by the Constitution and laws of this State. If the tax to be levied is an acreage tax levied by the vote of the people for gravity drainage, then such tax shall, by resolution of the governing authority of the district be levied for the full term for which it was voted. If the tax levied be an ad valorem tax assessed for the purpose of paying the principal and interest of the bonded indebtedness issued upon the vote of the property taxpayers, or if an acreage tax must be levied for the purpose of paying the principal and interest of the bonded indebtedness and the cost of maintaining a drainage district issued upon a petition of landowners for the purpose of reclaiming lands that must be levied and pumped in order to be drained and reclaimed, then such ad valorem tax and such forced contributions shall be levied annually.

Provided, that in all cases where drainage commissioners are authorized to issue bonds upon the application of landowners for the purpose of reclaiming lands by leveeing and pumping, such drainage commissioners shall not issue such bonds until and after the landowners of such district, or their agents authorized in writing, whether residents of non-residents, representing two-thirds in acres of the land situated in said drainage district or subdrainage district, have petitioned the drainage commissioners to issue such bonds and proceed with the work of reclamation, and in all cases where such bonds are authorized to be issued by such petition, then the drainage commission each year as long as any bonds are outstanding shall levy upon each and every acre of land, whether public or private, situated within the drainage or subdrainage district, an acreage tax or forced contribution for an amount per acre sufficient to pay the interest on the bonded indebtedness of the said district, the fraction of the principal due that year and the cost of maintaining the drainage.

**FORMATION OF NEW DISTRICT ON REFUSAL TO SECURE DEBT, ETC.**

Sec. 10. Be it further enacted, etc., That any drainage district organized under the provisions of this act, or any drainage district already organized under the provisions of existing laws, the property taxpayers of which shall have rejected a proposition to incur debt, issue bonds of a levy a tax for drainage purposes at an election held for that purpose, or if the validity of any drainage district has been questioned, or its right to call an election, levy and assess taxes, incur debt or issue bonds, as contemplated by Article 281 of the Constitution, has been assailed or questioned by a suit, and a decision of the Supreme Court of Louisiana has been rendered adverse to said district, or the right of the commissioners therein to call an election, incur debt, issue bonds and levy taxes as aforesaid, then the police jury or police juries of the parish or parishes in which said drainage district is situated shall have authority to reorganize said drainage district, either by increasing or diminishing the limits thereof, or dissolving said district and forming a new district out of the same territory or a portion thereof, or change the same in any manner authorized and contemplated by the provisions of this act, to exercise the same authority as if said police jury or police juries were organizing a new drainage district. When such contingency arises as herein contemplated, the commissioners of the old district shall become functus officio and the commissioners shall be appointed for the district in the same manner as contemplated in Section 2 of this act.

**COMBINATION WITH MUNICIPALITIES.**

Sec. 11. Be it further enacted, etc., That whenever the interest of two or more contiguous drainage districts, or if any such drainage districts and any municipal corporation are identical, or if they have to any extent a community of interest in the cleaning and opening of natural drains or new works of whatever nature they may be, said drainage districts and municipal corporations may undertake and complete such work as a joint enterprise, determining in advance the proportion which each drainage district and municipal corporation shall contribute to said work; and, provided, that if the work so undertaken be paid for by a special tax or by issuing bonds, the said drains shall belong to, and the title shall be vested in the drainage district and municipality contributing said tax, in proportion to the said contribution; provided that the provisions of this section shall not prevent the police juries of the various parishes included in a drainage district, incorporated towns as a part thereof, it matters not that the provisions of the charter of such municipal corporation may exempt it from the authority of the police jury, provided nothing herein shall be construed to in any manner curtail or limit the authority or power of the municipal authorities to carry on drainage work within the municipality, in any manner, or under any rules or regulations which the governing body of such municipalities shall deem expedient.

**COMBINATION OF PUBLIC IMPROVEMENTS WITH DRAINAGE.**

Sec. 12. Be it further enacted, etc., That whenever in the opinion of the board of drainage commissioners other works of public improvements within the drainage district may be combined with the drainage thereof for public benefit, the proposition to combine same may be included in and made part of the proposition to be submitted to the taxpayers, and then said tax, when imposed, or said bonds when issued, shall be for the combined purpose of drainage and such other works of public improvements as may be mentioned in the proposition submitted by virtue of and under the authority that may now or hereafter be conferred by the Constitution and laws of Louisiana.

**ASSESSMENT OF PROPERTY; DUTY OF ASSESSORS.**

Sec. 13. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That the assessors of the various parishes throughout the State in which drainage districts, in whole or in part, are located, shall assess all

property in said drainage district for the taxes levied against the property therein by the drainage commission thereof, and shall also list and extend on the assessment rolls all acreage tax that has been assessed upon the lands of the district by the commissioners thereof, and shall, after said assessment is completed, make in triplicate an assessment roll which shall be styled "Assessment Roll for Drainage District" (here give name and number of the district or subdistrict). The original of this roll shall be filed with the clerk of the district court of the parish or parishes in which the said drainage district is situated; a copy with the sheriff and tax collector, which shall be his warrant for collecting the taxes, and the other with the commissioners of the drainage districts. The assessors making the assessment roll shall receive as compensation for such services the fees fixed by law on all ad valorem taxes, and the sum of seventy-five dollars for the listing of property to serve as a basis to collect the acreage tax which shall be paid him by the drainage district, when the triplicate rolls are completed and filed as herein required; provided, that the fee herein fixed of seventy-five dollars shall constitute the total charge for all rolls made for the district or subdrainage district therein, and the cost shall be divided between the original district and any subdrainage districts therein issuing bonds or levying a tax. He shall list and assess all property in such district in the same manner as is required by law for State and parochial assessments and also list the name of the property owner and the number of acres owned by him where there is an acreage tax levied. When said listing and assessment has been completed the drainage commission, or a committee therefrom, shall have the power, and it shall be their duty, to appear before the police jury or juries of the parish or parishes in which the district is situated, sitting as a board of reviewers, and to urge any correction or change in any assessment in said district, and insist upon the police jury making any correction or change in any manner that the police jury, sitting as a board of reviewers, are now authorized to make in assessments under existing laws. In order that such board of commissioners may secure a correct list of all property situated in their respective districts, and the actual cash value thereof, they shall have the right to employ at a fair compensation a person or persons for the purpose of listing the property in said districts, and placing the cash value thereon, which listing and valuation shall be admitted in evidence and considered by the court upon any contest as to the value of any property assessed.

**CONSTITUTION AND GENERAL LAWS GOVERN TAXATION.**

Sec. 14. Be it further enacted, etc., That all the articles and provisions of the Constitution of 1898, or as subsequently amended and all laws in force or that may be hereafter enacted regulating and relating to the collection of taxes, and the creation of tax liens, and mortgages, tax penalties and of sales, shall also apply to and regulate the collection of the special tax which may be imposed under the provisions of this act, including an acreage tax or forced contribution, same to be collected through the sheriff and ex-officio tax collector for said parish, at the same time and in the same manner that he collects the State and parish taxes, and the same shall be by him turned over to the treasurer of said drainage district. The said tax collector or tax collectors shall make monthly settlements with the treasurer of said drainage districts as aforesaid, and receive from him a receipt for the amount of taxes paid by him, and when all taxes shall have been collected for the current year, the said tax collector shall make a final settlement with the drainage commission in the same manner as tax collectors are required to settle with the auditor of the State of Louisiana. And when said final settlement is made, and all the taxes assessed in said drainage district are collected and paid in or accounted for by delinquent or deduction lists as is contemplated and accepted by the auditor of public accounts in the collection of State taxes, then the said drainage commissioners shall give the said tax collector or ex-officio tax collectors a quietus in full for the taxes of that year. Said tax collectors or ex-officio tax collectors shall receive for all services rendered in

collecting and paying over the tax herein provided for, one-tenth of one per centum on the amount collected and paid in. Upon the failure of such collector to comply with the provisions of this act, the board of commissioners of the drainage district shall have the authority, and it shall be their duty, to forthwith proceed against said tax collector or sheriff and ex-officio tax collector, and the sureties on his official bond as tax collector for the collection of whatever amount that may be due to said drainage district.

**MEETINGS; EXPENSES.**

Sec. 15. Be it further enacted, etc., That the commissioners of drainage districts, appointed under the provisions of this act, may meet as often as they deem it necessary, provided they shall hold at least one meeting in every year. All expenses of the administration of said board, salaries of officers, etc., shall be paid out of any funds in the hands of the treasurer belonging to said district, when the items, bills, salaries, or expenses shall have been approved at a regular meeting of the board of commissioners, provided that the commissioners themselves shall not be allowed any compensation for their services as members of said drainage board, but may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their appointment.

**EXISTING DISTRICT REORGANIZATION.**

Sec. 16. Be it further enacted, etc., That any drainage district organized under existing laws, may avail itself of the provisions of this act and reorganize under the provisions hereof by making the fact known to the police jury or juries of the parish or parishes in which said drainage district may be located, and upon application from the drainage board of such drainage district to said police jury or juries, shall immediately organize such district under the provisions of this act, and commissioners shall be appointed for said district as hereinbefore provided. That any drainage district as now organized that may avail itself of the provisions of this act and is reorganized under the same, must assume all the debts and obligations of the old district and same must be liquidated and adjusted with the creditors of the said district and paid out of any funds that may be turned over to the new district as herein organized from the old district, or any funds that may be realized under the provisions of this act by the levying and collecting of taxes, issuing of bonds or in any other manner herein provided. They shall also have the power to carry out any contract that may have been entered into by the old district, which they supplant in the same manner, as though the old district had continued in existence.

Sections 17 and 18 were repealed by Act 219, 1912, p. 493.

**COMMISSION HAS ABSOLUTE CONTROL—STATE ENGINEERS.**

Sec. 19. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That the drainage commissioners of a drainage district or subdrainage district and the committee appointed under the provisions of this act to carry on the work of reclamation and superintend the maintenance of such subdrainage district, together with the State Board of Engineers, shall have absolute control over the drainage of their respective districts or subdrainage districts and shall act to the best interest of the district.

**AUTHORITY TO ISSUE BONDS—LANDS BELONGING TO STATE, ETC.**

Sec. 20. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That if any lands or shallow lakes not navigable, lying within a drainage or subdrainage district belonging to either the State of Louisiana, School Board, Levee Board, or any other of the political subdivisions of the State, and such shallow lakes or lands are capable of reclamation and cultivation, and same are included in a drainage or subdrainage district for reclamation purposes, and the drainage commissioners are authorized under the Constitution and laws of the State of Louisiana to issue bonds

against the lands of such drainage or subdrainage district and levy a forced contribution or acreage tax with which to pay the interest on the debt, the fraction of the principal due that year and the cost of maintaining the drainage of such district, then the said board of drainage commissioners shall also issue bonds against any lands belonging to the State, School Board, Levee Board or any of the political subdivisions of the State as above set forth, for the same amount per acre as is issued against the lands of individuals or corporations, and shall also be authorized to levy an acreage tax or forced contribution for the same amount and in the same manner as is levied against the lands of individuals or private corporations, and as long as the State of Louisiana, or any minor political subdivision thereof, is the owner of any land situated in such drainage or subdrainage district, the acreage tax or forced contribution levied against such land shall be paid at the same time, in the same manner and to the same extent as the land of individuals or corporations. In case the property belongs to a School Board, Levee Board or any other minor political subdivision of the State, the governing authority of such board shall make provisions for the purpose of paying the taxes upon such lands and may use any monies in hand for said purpose or may sell the land by complying with existing laws. If the land is the property of the State of Louisiana, then the acreage tax or forced contribution shall be paid by the Governor of the State out of the monies to be secured by him from the fiscal agent pending an appropriation by the Legislature for a refund thereof.

That the president and chairman of the governing authority of any of the political subdivisions of the State, acting upon the resolution of the board of commissioners of which he is president or chairman, in case of lands belonging to such political subdivisions, and the Governor, in case the lands belong to the State shall for the purpose of draining and reclaiming the lands of such district, sign petition for said purpose and the acreage represented by such authority in such petition shall be regarded exactly in the same manner as the property of private individuals or corporations.

**BUILDING LEVEES, PUMPS, ETC.**

Sec. 21. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That whenever it is necessary for the drainage of a district, or a sub-drainage district, to levee the district, or any portion thereof, and pump the water therefrom, the board of commissioners of the drainage district is hereby authorized and empowered, after having, through the Board of State Engineers, on the drainage department thereof, the drainage or sub-drainage district, surveyed and lines and levels run, and the cost of draining the particular area embraced therein ascertained per acre, and after complying with the Constitution and laws in force, to incur debt and issue negotiable bonds therefor, in an amount sufficient to drain and reclaim the lands of such district; provided, no bonds shall be issued against any lands where the report of the Board of State Engineers shows that the project is not feasible, or that the cost per acre for the reclamation would be so great as to make it doubtful that an acreage tax or forced contribution of three dollars and fifty cents (\$3.50) per acre would be sufficient to pay the interest on the debt, the fraction of the principal due each year and the cost of maintaining the drainage.

The said board of commissioners shall have power, and it is hereby made their duty, acting within the authority of the Constitution and laws that may then be in force to levy annually an acreage tax forced contribution, of whatever amount is necessary per acre upon the lands embraced within said district and drained or reclaimed, as aforesaid, to pay the interest on said bonds and the principal at maturity, and also an additional sum to maintain the drainage of said district after the lands therein have been reclaimed.

The bonds shall be issued of such denominations as that when the annual interest is added thereto the payments each year shall be as near equal and uniform as practical.

The money realized from the sale of the bonds shall be used exclusively by said drainage district for the purpose of draining and reclaiming such lands, and performing other necessary work in connection therewith, and such acreage tax shall only be imposed upon such lands in the districts as are necessary especially benefited by the drainage.

In determining the cost of drainage, it shall be the duty of the Board of State Engineers, either in person or by an engineer appointed by said Board, to make survey and estimate the cost of such drainage, and it shall be the duty of said Board of State Engineers in person, or by an engineer appointed by it, when called upon, to make all surveys and examinations necessary to determine such cost and to run all lines and levels, lay off canals and levees, locate pumping stations, and perform any and all other services in connection with the drainage and reclaiming of the lands of any district that may be required by the commissioners of said district. In making their report to the Board of Drainage Commissioners, the said Board of State Engineers shall state specifically whether or not the project is feasible, the cost per acre to drain and reclaim the lands; the cost per acre of maintenances after the drainage is established, the character of the lands, whether prairie or timbered, and, if partly timbered, the proportion of each; the cost per acre of putting the lands in a state of cultivation after the drainage is accomplished; the fertility of the soil of such drainage district, and the value of the land per acre after the reclamation is completed.

All expenses for preliminary surveys to determine the cost of draining and reclaiming the land shall be advanced by the land owners petitioning the drainage commission for such drainage, which amounts shall be reimbursed to said land owners by the drainage commission out of any funds realized from the sale of bonds; provided, the drainage of the lands is proceeded with as contemplated in this act.

The total cost of all legal expenses incurred in organizing a drainage or subdrainage district and issuing bonds therefor shall never exceed one and one-half per cent of the total bond issue where said bond does not exceed three hundred thousand dollars, and not exceeding one per cent where the bond issue is three hundred thousand dollars or more.

The cost and expenses for engineering work shall never exceed five per cent of the cost of such reclamation or drainage work, and it is especially made the duty of the drainage commission to have such work performed as economically as possible. The acreage tax thus levied may be increased or diminished as the needs of the district may require.

#### MATURITY OF BONDS.

Sec. 22. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That in all drainage districts or subdrainage districts that are formed for the purpose of reclaiming lands, and when bonds are issued for said purpose based upon a forced contribution or acreage tax, the authority issuing said bonds may fix the first maturity of such bonds not longer than five years from the date of issue, during which time the drainage of such drainage district or subdrainage district shall be completed.

That in issuing bonds for the purpose of reclamation where the character of the land is such that it must be leveed and pumped in order to be drained and reclaimed, the drainage commission of such drainage district may issue at one time, and as one series bonds, to the total amount necessary for the purpose of completing the drainage, or they may issue such bonds in one or more series and at different times, or if, after the work has progressed, any disaster shall befall the district, by which the works are injured or destroyed, and a greater amount than first contemplated was necessary to be expended, or if it was found that some error or mistake had been made as to the cost and that a greater amount than was contemplated originally was necessary to be expended in order to drain and reclaim the lands, then additional bonds may be issued, which bonds shall have the same maturities, bear the same rate of interest and be equal in every respect to the bonds previously issued, provided, that bonds

shall not be issued in a sum per acre greater than that a forced contribution of three dollars and fifty cents (\$3.50) per acre per annum will be sufficient to pay the interest on the said bonds, the fraction of the principal due each year, and the cost of maintaining the drainage.

**DUTY TO RECLAIM LANDS AND MAINTAIN DRAINAGE.**

Sec. 23. Be it further enacted, etc., That it is especially made the duty of the drainage commissioners, not only to reclaim unclaimed lands of their district, but when such lands are reclaimed by artificial means, such as pumping, then they must at all times maintain the necessary pumping stations to insure the continuous drainage of the said lands, and to this end they are authorized to levy such acreage tax or forced contribution as is authorized by the Constitution and laws in force at that time, and by complying with the provisions of Section 9 of this act, or to use for said purpose any other funds raised in any other manner in said district.

**WHEN ACREAGE TAX MAY BE IMPOSED.**

Sec. 24. (As amended by Act 219, 1912, p. 493.) Be it further enacted, etc., that where lands have already been drained or reclaimed, and are situated within the district, if the drainage of such lands is maintained by the owner, no acreage tax shall be imposed thereon. But if such lands are embraced in a drainage or sub-drainage district, the drainage commissioners may issue bonds against such lands for the full amount that the drainage and reclamation of same would have cost if same had never been reclaimed, and in such case the drainage commissioners shall pay the owner or mortgage creditor, out of the funds realized from the sale of bonds the value of all canals, ditches, and pumping plants situated thereon which can be used to advantage by the drainage commissioners, or the drainage commissioners may embrace such reclaimed area in a drainage or subdrainage district without issuing bonds thereon, in which case the drainage commissioners shall take over all canals, ditches and pumping plants without cost, and the annual taxes or forced contributions levied on such lands in such case shall be only for the cost of maintenance. Any money due landowners for improvements on lands already reclaimed shall be paid by the drainage commissioners to the first mortgage or privilege creditor holding a mortgage or privilege on such lands, or to the owner by the written consent of such mortgage or privilege creditor.

**DUTY OF STATE ENGINEERS.**

Sec. 25. Be it further enacted, etc., That it shall be the duty of the Board of State Engineers to give special study to the drainage and reclamation of the wet, marsh and swamp lands of the State of Louisiana, and to be in a position at all times to have surveys made, where requested, and to give the necessary information as to the feasibility of the drainage proposed.

**POWER OF COMMISSIONER OF DRAINAGE DISTRICTS.**

Sec. 26. Be it further enacted, etc., That the commissioner of drainage districts, especially in that portion of the districts which may be uninhabited, shall have the power in locating canals and ditches for said districts to also lay out public roads and build the same in constructing the drainage of the district, and the commissioners shall at all times have free ingress and egress to and from all lands in the drainage district.

**PROCEEDINGS WHERE TAX IS TO BE LEVIED.**

Sec. 27. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That whenever, upon petition as provided for by Section 9 of this act, it is decided by a board of drainage commissioners to drain certain lands by levying a forced contribution or acreage tax thereon, the said drainage commissioners shall act in said matter by resolution or motion, fully setting forth and giving in detail the number of acres in said district to be drained, as shown by the survey; the amount that the report of the Board of State Engineers shows it will cost per acre to drain the lands,

and proceed to provide the funds with which to drain said lands as authorized by the Constitution and laws of this State in force at that time; which resolution, when thus passed by the board of commissioners, shall be notified to the assessor of the parish by forwarding him a copy thereof in order that he may extend the acreage tax, or forced contribution thus levied upon the assessment rolls for the parish in which the property is situated, and they shall record the original in the mortgage records of the parish, and also publish the same in the official journal of the parish, which official journal shall not be permitted to charge in excess of the legal rates paid by the police jury of the parish of which the paper is the official journal.

#### APPEAL TO COURTS FOR TEST OF VALIDITY.

Sec. 28. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That whenever a debt has been incurred and bonds ordered to be issued and a forced contribution, or acreage tax, levied as provided for in previous sections, any land owner having property situated within the limits of the area proposed to be drained, shall have the right during sixty days next following the date of the publication of the resolution required by the preceding sections, to appeal to the courts, for the purpose of testing the validity of such proceedings, after which time the validity of the proceedings, of the bonds authorized to be issued and the tax levied, or authorized to be levied, shall be absolutely uncontested for any cause whatever, and no court shall have jurisdiction to hear or determine any such cause. After which time the bonds shall be registered by the Secretary of State without charge, as provided for bonds under Section 31, Act 256, of 1910, as amended by Act 218 of 1912. The landowners in a drainage district or subdrainage district may, by unanimous consent, waive the right to resort to the court and absolutely ratify and confirm what has been done by the drainage commission and thereafter be forever barred from testing or contesting the validity of the proceedings, the bonds issued or the tax levied for the payment of the principal and the interest of said bonds and the cost of maintaining the district. And all boards are required to levy the tax in such instance, and shall not be permitted to question their authority to do so. When unanimous consent of property owners is obtained, as above set forth, the Secretary of State shall be required to register the bonds without waiting for the lapse of sixty days.

#### ENFORCEMENT OF TAX—SALE OF PROPERTY.

Sec. 29. (As amended by Act 227, 1914, p. 424.) Be it further enacted, etc., That if in the enforcement of the collection of the acreage tax or forced contribution assessed against the lands within a drainage or sub-drainage district; it becomes necessary to sell said property for the payment of the acreage tax or forced contribution due thereon, and the entire property thus offered fails to sell for an amount sufficient to pay such acreage tax or forced contribution, together with the State and other taxes assessed thereon, it shall be the duty of the sheriff of the parish in which the property is situated to adjudicate the same to the State of Louisiana, and when such adjudication is made, then it shall be the duty of the Register of the State Land Office to immediately take possession of the said land in the name of the State, and to lease, or rent the said land, and as soon as one year in which the property can be redeemed expires, then to offer the said land for sale and to sell it either at public or private sale for the best price obtainable; provided that it shall not be sold for less than all taxes or forced contributions due thereon, together with interest and penalties; and that any conveyance made by the Register of the State Land Office of such property after the period of redemption has expired, to-wit: twelve months from the date of the recording of the act of adjudication to the drainage board shall convey a good and valid title to the purchaser, and all prescriptive statutes enacted in favor of the sales shall apply with equal force to any tax adjudication under this statute. That all bonds issued under the Constitution and laws of the State of Louisiana and especially under the provisions of this act and those that it amends, shall be protected by all the guarantees herein set forth and shall con-

stitute a valid and binding contract which shall be enforceable before any court of competent jurisdiction.

#### AUTHORITY TO ISSUE BONDS.

Sec. 18. (Act 227, 1914, p. 424.) Be it further enacted, etc., That the board of commissioners of drainage districts shall have authority to issue bonds as authorized by Article 281 of the Constitution as amended by Joint Resolution No. 70 of the General Assembly of the year 1914.

#### REPEALING CLAUSE PROVISO.

Sec. 30. Be it further enacted, etc., That all laws or part of laws pertaining to drainage districts, contrary to or inconsistent with the provisions of this act, are hereby repealed; provided, that all laws or part of laws which are applicable alike to drainage districts or other corporations provided for by the Constitution or laws of Louisiana, shall in no manner be affected by the provisions of this act, in so far as they relate to other corporations above referred to.

*Nota.* Under this act the Drainage Commissioners are authorized to levy taxes for maintaining the system without a previous vote of the taxpayers. The Sections 9, 23, 27, adopted in anticipation of pending changes in the Constitution were validly enacted, and the subsequent adoption of the amendment to the Constitution authorizes the tax proposed by the act. The contention that the local assessment provided in the act was under it imposed without regard to due process of law is not well taken—ample opportunity to be heard is given the taxpayer. *Goguenham vs. Avoca Drainage District*, 130 La. 323. The power of the majority in acreage of the taxpayers and of the Board of Commissioners of the Drainage District to bind the minority does not extend beyond the limits fixed by the Constitution. Action of the majority of the taxpayers and of the commissioners outside of the constitutional authority is without effect, and where the majority of the taxpayers propose and the commissioners adopt a resolution imposing a tax of two dollars per acre for forty years, the action is void, for the law intends that the tax shall be levied each year. Nor can the Board disregard the sub-districts which had been established and establish a uniform acreage tax for all, when it appears that the cost of drainage for the sub-districts was not the same in all of them. These defects are not cured by the prescription of sixty days, fixed in Sec. 28. *St. Charles Mun. Drg. Dist. vs. Cousin*, 130 La. 331. The entire sum realized from the levy of a drainage tax cannot be used to drain only a part of the district. The prescription of sixty days is not applicable. *Williams vs. Board of Commissioners*, 130 La. 900. A special tax to secure the payment of negotiable bonds issued by a drainage district must be levied each year, and the amount of the levy must be determined by the amount payable each year under the terms of the contract. A levy in advance of the full tax for the full term is contrary to the requirements of the Constitution. *Board of Commissioners vs. Randolph*, 131 La. 244. The law gives right to create such drainage districts and to levy taxes in such sub-districts without levying the tax throughout the entire district. *Board vs. Bank of Abbeville*, 135 La. 704. See also *Marceaux vs. East Cameron Drg. Dist.*, 134 La. 912. The levy of a drainage tax on the entire district to pay the bonds which had been issued does not prevent the commissioners from thereafter levying an additional tax on one of the sub-districts. *Jefferson, etc., Drainage Dist. vs. Whitney Central T. & S. Bank*, 141 La. 843. A drainage district has the special purpose of the improvement of particular property, and when it is so formed as to include property which is not and cannot be benefited directly or indirectly, including it only so that it may pay for the benefit to others' property, that is an abuse of power and injunction will not issue to prevent it. *Shaw vs. Board of Commissioners*, 138 La. 917.

### DRAINAGE SYSTEMS; TAX LEVIES.

Act 90 of 1916, p. 207.

#### TITLE.

AN ACT to define a drainage system, provide for the levy of taxes and the issuance of bonds under the terms and conditions of Paragraph 2 of Article 281 of the Constitution of Louisiana, when said bonds are to be issued to complete a system of drainage without an election to authorize the same, and to provide a period of estoppel when suits may be brought to contest said taxes, bonds and proceedings leading to the levy and issuance.

#### NOTICE OF INTENTION TO LEVY TAX.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That whenever a Board of Drainage Commissioners proposes to

issue bonds to complete a system of drainage eighty per cent (80%) of which shall have been accomplished under the terms of Paragraph 2 of Article 281 of the Constitution, it shall first be necessary to give notice in the official journal or journals of the parish or parishes where the drainage district is located of the intention to levy the acreage taxes proposed to be funded into the bond issue contemplated, which notice shall appear once, at least ten days prior to the proposed issuance of said bonds.

**ESTIMATE OF AMOUNT OF WORK DONE.**

Sec. 2. Be it further enacted, etc., That at or about the time of such notice the board of drainage commissioners shall request the Board of State Engineers to make an estimate of the amount of work performed and done in such drainage district, in order to determine affirmatively whether or not eighty per cent (80%) of the proposed system has been accomplished, and if the report of the Board of State Engineers determines that eighty per cent (80%) of the work has been accomplished, they shall advise and recommend what work will be necessary to complete the system of drainage thus begun and shall advise the extent of bonds required to be issued and sold for the purpose of completing such system of drainage.

**WHAT CONSTITUTES DRAINAGE SYSTEM.**

Sec. 3. Be it further enacted, etc., That a drainage system or a system of drainage as defined by this act and as understood by Article 281 of the Constitution of Louisiana is such basic and fundamental water courses or canals that provide an outlet for the water shed of a given district or locality.

**ISSUE OF BONDS FOR WORK ALREADY DONE.**

Sec. 4. Be it further enacted, etc., That the Board of Drainage Commissioners acting on the report and advice of the Board of State Engineers will proceed to levy such tax as will be necessary to fund into bonds sufficient to complete the system already begun, and they will fix the denominations of said bonds so that each year the amount to be paid in principal and interest will be as nearly equal to the previous year as possible on a slightly increasing ratio for each year until said bonds are fully paid, provided that all bonds issued hereunder will begin their maturities at a period not longer than five years from their date and run not longer than forty years and bear interest at the rate of five per cent (5%) per annum.

**COMPLETION OF WORK.**

Sec. 5. Be it further enacted, etc., That the board of drainage commissioners will proceed, either before the sale of bonds or after the sale thereof, to call for bids for the completion of the work contemplated in said drainage system, and will let the contract for its completion as in its discretion will be to the best interest of the district, said contract to be let subject to the legal sale of the bonds at par and to be paid for out of the proceeds of sale of said bonds in such manner and under such conditions as the Board of Drainage Commissioners may determine.

**PUBLICATION OF PROCEEDINGS RELATING TO BOND ISSUES.**

Sec. 6. Be it further enacted, etc., That whenever any bonds are issued under the provisions of this act, a certified copy of the proceedings of the board of drainage commissioners, authorizing the issuance of said bonds and the levy of the taxes to pay the same, shall be published and promulgated in the official journal and shall be recorded in the mortgage records of the parish or parishes where the drainage district is located and further shall be registered with the Secretary of State who will also be furnished with a copy of the journal publishing the proceedings.

**PERIOD WITHIN WHICH TAXPAYERS MAY CONTEST TAX LEVY.**

Sec. 7. Be it further enacted, etc., That in order to fully comply with the due process of law, every taxpayer in said district, whether resident or

non-resident, and every other person interested, shall be allowed a period of sixty days in which to raise any contest over the benefits to accrue from the drainage or over the validity, legality or constitutionality of the proceedings leading up to the levy of said tax or to said bond issue, and after the lapse of sixty days, reckoning from the date of publication and promulgation of the proceedings as provided for in the previous section, on the production of a certificate from the clerk of court of the parish or parishes where the drainage district is situated, that there is no litigation on the docket of said court affecting said bond issue in any manner, or the proceedings leading up to the levy of tax or to the issue of bonds, the Secretary of State shall sign and seal the following certificate.

"Incontestable.

*Secured by tax.*

Registered this.....day of.....

(Seal)

.....

*Secretary of State."*

And seal the said bonds without making any charge therefor. Bonds so registered shall constitute a binding and irrevocable contract between the holder of said bonds and the drainage district and they will be protected by every constitutional guarantee of good faith and estoppel.

#### **SALE OF BONDS.**

Sec. 8. Be it further enacted, etc., That the Board of drainage commissioners shall sell the bonds thus issued at not less than the price fixed by the Constitution at the time of sale and the proceeds of sale shall constitute a trust fund for the accomplishment of the purposes for which the bonds were issued, and all the provisions of law now applicable to the collection of drainage taxes under the laws now in force shall apply to the collection of taxes herein provided for.

#### **ORGANIZATION—ISSUE OF BONDS.**

Sec. 9. Be it further enacted, etc., That in order for existent drainage districts to issue bonds under the provisions of this act it shall not be considered essentially necessary to reorganize the said district as provided for by Section 16 of Act 317 of 1910 as amended, but nothing herein is intended to prevent the reorganization of such drainage districts, if in the discretion of the board of commissioners and the police jury of the parish it may be deemed most advisable.

#### **INCONTESTABILITY OF BONDS.**

Sec. 10. Be it further enacted, etc., That any bonds authorized or the proceedings for the issuance of which have been commenced under the constitutional grant of authority herein set forth, are hereby recognized as valid obligations of the district issuing the bonds after the lapse of sixty days from the date of issuance thereof and no court shall entertain jurisdiction of any suit to contest the validity or legality of any proceedings leading up to the issuance of said bonds or to the imposition of the tax to provide for their payment.

#### **ACT DOES NOT REPEAL PREVIOUS LEGISLATION.**

Sec. 11. Be it further enacted, etc., That this act is not intended to repeal any of the existent laws on the same subject-matter, but is supplemental to and in furtherance of said laws, except as same may conflict, in case of which conflict this act to take precedence over any other act.

Note. The law does not prevent the commissioners from creating a sub-district and imposing a tax on the lands therein, in addition to the tax which was imposed on the lands of the sub-district, as part of the entire drainage district. Jefferson and P. D. Dist. vs. Whitney Central T. & S. Bank, 141 La. 849. See note to Act 217, 1910, at p. 1362.

**AUTHORITY OF DRAINAGE DISTRICTS TO LEVY TAX.****Act 29 of 1906, p. 45.****TITLE.**

AN ACT to authorize drainage districts created and organized under the provisions of Act No. 37 of 1894, and of other acts adopted previous to the adoption of the Constitution of 1898, to levy an annual contribution or acreage tax on the lands situated in such districts, and providing for the submission of such levy to the legal voters of such district.

**TAX WHICH MAY BE LEVIED.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in order to raise the funds necessary for the purpose of draining the lands situated in any drainage district of the State, created and organized under the provisions of Act No. 37 of 1894, or of other acts of the General Assembly of the State, enacted previous to the adoption of the Constitution of 1898, in addition to such as may be raised by special ad valorem taxation under existing laws, a local assessment or forced contribution, not to exceed twenty-five cents per acre, may be levied and collected annually on all lands situated in such drainage districts, provided such local assessments or forced contributions be authorized by a majority in number, and amount or value of property, of the property taxpayers authorized by Article 199 of the Constitution of 1898, to participate in said election, at an election held for the purpose of submission of same to them.

**ELECTION FOR PURPOSE.**

Sec. 2. Be it further enacted, etc., That all elections held for the purpose of levying such forced contributions or acreage taxes shall be held and conducted, all returns of same made, and all proceedings had, in conformity with the provisions of Act No. 37 of the General Assembly of this State, approved June 28, 1894.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws or parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

**CREATION OF SUB-DIVISIONS OF DRAINAGE DISTRICTS.****Act 305 of 1908, p. 464.****TITLE.**

AN ACT providing for the creation of sub-divisions of drainage districts, and for the manner of undertaking, prosecuting and maintaining special drainage works within such sub-divisions, as well as providing for the manner of raising revenues for such works, for the direction of the affairs of such sub-divisions of drainage districts.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in all cases in which, under existing laws, drainage districts have been or will be organized, and property taxpayers living within any sub-division of said drainage district shall desire to procure of such sub-division special drainage work in excess of or in addition to general drainage work undertaken within the entire district, they shall be permitted to do so in the manner and upon complying with the conditions and requirements following, to-wit:

Any number of taxpayers, not less than ten, owning contiguous property so as to be susceptible of forming from said properties a sub-division of the greater drainage district, shall have the right to require of the drainage commissioners, upon the written petition of two-thirds of said property owners, to create one or more sub-drainage districts within the larger district, over which the said drainage commissioners shall have the same jurisdiction as over the entire district.

Note. The proceeds of the drainage tax of an entire district cannot be devoted to the drainage of a part of it, leaving the remainder without present advantage. *Williams vs. Board of Commissioners*, 130 L. 969. See note to Act 217, 1910, at p. 1362.

## DRAINAGE COMMISSIONS MAY ANTICIPATE REVENUES.

**Act 22, E. S. 1917, p. 32.**

**TITLE.**

**AN ACT** authorizing Boards of Commissioners of duly organized drainage districts in this State to anticipate their revenues of the current year by borrowing moneys required for the needs of the district for the current year, and to secure such loans by pledge of their revenues.

**BOARD OF COMMISSIONERS OF DRAINAGE DISTRICTS AUTHORIZED TO ANTICIPATE THEIR REVENUES BY BORROWING MONEY.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Board of Commissioners of the duly organized Drainage Districts of the State, shall, in their discretion, have authority to anticipate the current revenues of each year, in advance of their availability, by borrowing such sums as in their judgment may be required for the needs of the District for the current year, upon such terms as they may see fit, at rates of interest not exceeding six (6%) per cent per annum, and to secure such loans by a pledge of the revenues of the District for the current year.

**PLEDGE TO BE BY NOTARIAL ACT.**

Sec. 2. Be it further enacted, etc., That such pledge shall be either by notarial act or by act under private signature, duly acknowledged, and a copy thereof shall be filed with the Fiscal Agent of the Drainage District, and another copy shall be filed with the Supervisor of Public Accounts; and upon such filing the pledge shall be entitled to payment of the sums advanced upon the pledge, out of the revenues of the current year as collected, by preference and priority over all persons whatsoever, subject only to the legal rights of the holders of any bonds theretofore issued by the said Drainage District.

**REPEALING CLAUSE.**

Sec. 3. Be it further enacted, etc., That all laws and parts of laws in conflict or inconsistent herewith are hereby repealed.

**BOARD OF STATE ENGINEERS TO MAKE SURVEYS FOR DRAINAGE CANALS.**

**Act 103 of 1906, p. 168.**

**TITLE.**

**AN ACT** to require the Board of State Engineers to make such preliminary surveys and other surveys and to perform such services as may be required by the Board of Commissioners of any drainage district in the State of Louisiana, for the construction of ditches or canals, or other public works necessary for drainage purposes in any drainage district in this State; and providing for the defraying the expenses that may be incurred by said State Board of Engineers in the performance of such services.

**REQUIRING STATE BOARD OF ENGINEERS TO MAKE SURVEYS FOR DRAINAGE DISTRICTS.**

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That in addition to the duties already prescribed by law it shall be the duty of the Board of State Engineers to make such preliminary surveys and other surveys and to perform such services as may be

required by the Board of Commissioners of any drainage district in the State of Louisiana, for the construction of ditches, canals or other public works necessary for drainage purposes in any drainage district in this State.

Sec. 2. Be it further enacted, etc., That all of the expenses that may be incurred by said Board of State Engineers in the performance of such services, as aforesaid, shall be paid monthly on their own warrants approved by the Governor out of funds provided for drainage purposes in the drainage districts in which such surveys and such services as are, herein required, may be performed by the Board of State Engineers.

**WARRANTS FOR EXPENSES TO BE PAID IN CASH.**

Sec. 3. Be it further enacted, etc., That the Board of Commissioners of Drainage Districts be and are hereby required to pay in cash, on presentation, all warrants drawn as set forth in Section 2 for all surveys and services officially required by them from the Board of State Engineers.

**REPEALING CLAUSE.**

Sec. 4. Be it further enacted, etc., That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

**DONATION OF RIGHTS OF WAY TO UNITED STATES FOR CERTAIN PURPOSES.**

**Act 19 of 1908, p. 19.**

**TITLE.**

AN ACT authorizing the Boards of Commissioners of Drainage Districts to donate to the United States of America rights of way for the purpose of constructing, operating and maintaining canals for transportation purposes or to facilitate the public waterways.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the Board of Commissioners of any drainage district legally created within this State shall have the authority by resolution duly passed by said Board, when in its judgment it is to the manifest interest of the public in general, and in order to facilitate the construction, maintenance and operation of canals, or a portion of a canal, or a branch of any canal, constructed by or under the authority of the United States for the purpose of transportation or for purposes of extension or improvement of the public waterways to donate to the United States of America any or all of their rights of way which grant or donation may be made without any previous advertisement thereof, and the President of the Board of Commissioners of any such drainage district is empowered, when authorized by a resolution of said Board, to sign an act of conveyance evidencing such grant or donation; provided, however, that the said Boards of Commissioners shall in every case reserve the right to control, occupy and use any part of said rights of way not actually needed by the United States in the manner and to the same extent as before conveying said rights of way.

Sec. 2. Be it further enacted, etc., That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

**PROTECTION OF DRAINAGE CANALS, ETC.**

**Act 61 of 1904, p. 142.**

**TITLE.**

AN ACT for the protection of all public Drainage Canals or Drainage Channels in the State; investing the various Levee and Drainage Districts of the State with the control of all drainage channels within

the limits of their district and for a space of one hundred feet wide on each side thereof, selected by any Levee or Drainage District and recommended and approved by the Board of State Engineers, whether such drainage channels have been improved by the Levee or Drainage District, or have been adopted without improvement as necessary parts of or extensions to improved drainage channels; authorizing the said Levee or Drainage Districts to adopt rules and regulations for preserving the efficiency of said Drainage Channels, and prescribing a penalty for the violation of such rules and regulations; forbidding the obstruction in any manner of such Drainage Channels except by the authority and under the direction of said Levee or Drainage Districts; and making any violation of this act punishable by fine or imprisonment, or both, at the discretion of the Court.

**CONTROL OF PUBLIC DRAINAGE CHANNELS IN LEVEE AND DRAINAGE DISTRICTS GIVEN TO BOARD OF COMMISSIONERS OF SUCH DISTRICTS.**

**Section 1.** Be it enacted by the General Assembly of the State of Louisiana, That the various Levee and Drainage Districts of this State shall have control over all public Drainage Channels within the limits of their respective districts and for a space of one hundred feet on each side thereof, selected by the district and recommended and approved by the Board of State Engineers, whether such drainage channels have been improved by the Levee or Drainage District, or have been adopted without improvement as necessary parts of or extensions to improved drainage channels; and shall have authority to adopt rules and regulations for preserving the efficiency of said Drainage Channels.

**PENALTY FOR VIOLATING REGULATIONS.**

**Sec. 2.** Be it further enacted, etc., That any person or persons who shall obstruct such Drainage Channels by bridging same, except in accordance with plans, specifications and instructions prescribed by the District; construct dams, locks or gates in them; extend fences across them of wire or of any other material; establish fording places across them, or water places or approaches for stock; anchor rafts, crafts, fish traps, fish cars and other obstacles in the channel; drain into them by natural or artificial inlets except under regulations prescribed by the District; float timber in them; use them for transportation or navigation except under authority of and agreement with the district, or in any manner obstruct such Drainage Channels, or violate any of the rules or regulations adopted and promulgated by the districts for preserving and maintaining the efficiency of the Drainage Channels in their districts, shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be punished by imprisonment without hard labor for a term not less than thirty nor exceeding sixty days, or fined in a sum not less than twenty-five or exceeding five hundred dollars, or both, at the discretion of the Court.

**REPEALING CLAUSE.**

**Sec. 3.** Be it further enacted, etc., That this act shall take effect from and after its passage.

**Note.** The opening, maintenance and control of natural drains is within the police power of the State. This power is conferred on the Boards of Commissioners of the Drainage Districts legally established. The Boards are authorized to enter upon lands through which natural drains pass, for the purpose of doing the work necessary to render and keep them efficient, to remove obstructions. The Boards may enlarge such drains to meet the requirements of the systems of drainage which may have been adopted; where, however, new drains are cut, the land must be expropriated and paid for. *Petit Anse Coteau Drainage Dist. vs. Iberia & V. R. Co.*, 124 La. 502. See note to Act 217, 1910, at p. 1362.

*Ex. J. M.  
5/5/20*











